

# TOWN OF MIAMI LAKES, FLORIDA

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## AGENDA

### Regular Council Meeting

September 5, 2017

6:30 PM

Government Center

6601 Main Street

Miami Lakes, Florida 33014

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **MOMENT OF SILENCE**
4. **PLEDGE OF ALLEGIANCE:**
5. **SPECIAL PRESENTATIONS:**
6. **PUBLIC COMMENTS:**

All comments or questions from the attending public to the Council shall be directed to the Mayor, in a courteous tone. No person other than the Council and the person recognized by the Mayor as having the floor, shall be permitted to enter into discussion without the permission of the Mayor. To ensure the orderly conduct and efficiency of the meeting, public comments shall be limited to three (3) minutes maximum per person; however, the Mayor may authorize the extension of the aforesaid time frame, and any extension shall apply to other individuals speaking on the same subject.

No clapping, applauding, heckling, verbal outburst in support of, or in opposition to a speaker or his/her remarks shall be permitted. Should a member of the audience become unruly, or behave in any manner that disrupts the orderly and efficient conduct of the meeting, the Mayor is given the right and the authority to require such person to leave the Council Chambers.

As a courtesy to others, all electronic devices must be set to silent mode to avoid disruption of the proceedings.

**Remote Public Comments:** Please register with the Town Clerk from the date the agenda is released (Wednesday before the meeting) to the date before the meeting. For additional information, please contact [Clerk@miamilakes-fl.gov](mailto:Clerk@miamilakes-fl.gov)

7. **ORDER OF BUSINESS(DEFERRALS/ADDITIONS/DELETIONS):**
8. **APPOINTMENTS:**
9. **COMMITTEE REPORTS:**

Elderly Affairs Committee  
Youth Activities Task Force

10. **CONSENT CALENDAR:**

**A. Approval of Minutes**

- July 25, 2017      Regular Council Meeting
- July 26, 2017      Special Call Meeting
- August 7, 2017     Sunshine Minutes
- August 14, 2017    Special Call Meeting
- August 24, 2017    Budget Workshop Meeting

**B. 1. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH BERMELLO AJAMIL & PARTNERS, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**

**2. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH MC HARRY & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**

**3. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH THE MILLER LEGG & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**

**C. 1. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE (Rey)**

**2. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH THE CORRADINO GROUP, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.(Rey)**

**3.A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH HW LOCHNER, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.(Rey)**

**4. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH KIMLEY-HORN & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**

**5.A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI**

LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH CALVIN GIORDANO & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.(Rey)

6.A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH WSP USA, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.(Rey)

7.A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH MARLIN ENGINEERING, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.(Rey)

- D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO UTILIZE STATE CONTRACT NO. 43230000-15-02 AND FEDERAL GSA CONTRACT GS-35F-059DA FOR INFORMATION TECHNOLOGY PURCHASES; WAIVING THE PROCUREMENT PROCEDURES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO ACCESS THE STATE AND FEDERAL CONTRACTS AND TO IMPLEMENT THEIR TERMS AND CONDITIONS; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACTS; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)
- E. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; ESTABLISHING AN AUDITOR SELECTION COMMITTEE PURSUANT TO SECTION 218.391, FLORIDA STATUTES;



PROVIDING FOR COMMITTEE MEMBERSHIP; PROVIDING FOR THE DUTIES OF THE AUDITOR SELECTION COMMITTEE; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE WITH THE AUDITOR; AND PROVIDING FOR AN EFFECTIVE DATE.

- F. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING COMPETITIVE PROCUREMENT PROCEDURE UNDER SECTION 5(D) OF ORDINANCE 12-142; APPROVING THE SIX-MONTH EXTENSION OF CONTRACT 2012-29 FOR LITTER/DEBRIS PICK-UP & DISPOSAL; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AMENDMENT TO CONTRACT 2012-29; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.(Rey)
- G. RESOLUTION OF THE CITY COMMISSION OF THE TOWN OF MIAMI LAKES REQUESTING THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS TO TRANSFER CONTROL OF THE LOCH LOMOND SECURITY GUARD, ROYAL OAKS EAST SECURITY GUARD, ROYAL OAKS SECTION I, LAKE HILDA MULTIPURPOSE MAINTANANCE, LAKE PATRICIA MULTIPURPOSE MAINTENANCE SPECIAL TAXING DISTRICTS LOCATED ENTIRELY WITHIN THE CITY; SUBJECT TO A MAJORITY VOTE OF THE QUALIFIED ELECTORS OF THE RESPECTIVE SPECIAL TAXING DISTRICTS, AND DESIGNATING THE MAYOR AND CITY COMMISSION AS THE GOVERNING BODY IN ACCORDANCE WITH SECTION 18-3.1 OF THE MIAMI DADE COUNTY CODE. (Rey)
- H. RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AUTHORIZING TOWN MANAGER TO MODIFY SERVICE WITH FLORIDA POWER AND LIGHT (FPL) AND CONVERT FPL OWNED STREET LIGHTS TO LED LIGHTS; PROVIDING FOR INCORPORATION OF RECITALS AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

11. ORDINANCES-FIRST READING:

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO THE TOWN'S SIDEWALK NETWORK; ADOPTING RECITALS; AMENDING CHAPTER 35, ENTITLED 'STREETS, SIDEWALKS AND OTHER PUBLIC PLACES', ESTABLISHING PROVISIONS FOR THE COMPLETE BUILDOUT OF THE TOWN'S SIDEWALK NETWORK; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)
- B. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONSTRUCTION SITES; AMENDING

CHAPTER 16, NUISANCES, AND CREATING ARTICLE 3, CONSTRUCTION SITES; ESTABLISHING SITE MANAGEMENT PROVISIONS FOR SAME; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO CHAPTER 13, LAND DEVELOPMENT CODE, AMENDING SECTIONS 13-870 AND 13-881, RELATING TO DEVELOPMENT APPROVAL PROCEDURES FOR BUILDING HEIGHTS EXCEEDING FIVE (5) STORIES IN THE TC, TOWN CENTER DISTRICT, REQUIRING SUCH DEVELOPMENT REQUESTS BE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid & Collazo)

**12. ORDINANCES-SECOND READING (PUBLIC HEARING):**

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-301, RELATING TO DEVELOPMENT APPROVAL PROCEDURES; CREATING SECTION 13-301(s), REQUIRING DEVELOPER INFORMATION SESSIONS FOR ZONING APPLICATIONS OF A SPECIFIED DENSITY/INTENSITY THAT ARE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Mingo, Cid, Collazo, Daubert, Lama, Mestre & Rodriguez)

B. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Rodriguez, Cid, Collazo, Daubert, Lama, Mestre & Mingo)

C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE.(Rey)

D. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING TOWN'S EMPLOYEE BONUS ORDINANCE 03-29; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

**13. RESOLUTIONS:**

- A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, MODIFYING THE BUDGET APPROVED BY ORDINANCE NO. 16-197 AS AMENDED BY ORDINANCE 17-199; MODIFYING BUDGETED LINE ITEMS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**
- B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING AND RATIFYING THE TERMS AND CONDITIONS OF A SETTLEMENT AGREEMENT PERTAINING TO THE FOLLOWING MATTER EVELYN ROIG v. TOWN OF MIAMI LAKES (CASE NO. 2009 56353 CA 24); PROVIDING FOR AUTHORIZATION; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**
- C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING THE PROCUREMENT COMPETITIVE BIDDING PROCESS; AUTHORIZING THE TOWN MANAGER TO EXTEND THE CURRENT RENTAL AGREEMENT WITH PANTROPIC POWER, INC. TO COVER THE REMAINDER OF THE HURRICANE SEASON; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)**

**14. NEW BUSINESS:**

- A. Police Civil Citations (Cid)**
- B. Public Safety (Mestre)**
- C. Public Records Requests (Rodriguez)**
- D. Town Manager Selection Process (Cid, Collazo)**
- E. Flooding (Mestre)**
- F. Helping out the victims of Hurricane Harvey (Rodriguez)**

**\* This item will require a waiver of Section 7.2 of the Special Rules of Order of the Town of Miami Lakes.**

- G. Protecting the Miami Lakes Brand (Cid)**

**15. MAYOR AND COUNCILMEMBER REPORTS:**

- A. Florida League of Cities Annual Conference (Cid)**

**16. MANAGER'S REPORT:**

- A. FL SUN Solar Co-Op Program.**
- B. PACE Providers**

## **C. State Legislative Priorities for FY2018-2019**

### **17. ATTORNEY'S REPORT:**

#### **A. Attorney Report on Pending Litigation**

##### **ADJOURNMENT:**

This meeting is open to the public. A copy of this Agenda and the backup therefore, has been posted on the Town of Miami Lakes Website at [miamilakes-fl.gov](http://miamilakes-fl.gov) and is available at Town Hall, 6601 Main Street, Miami Lakes 33014. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact Town Hall at 305-364-6100 two days prior to the meeting.

Anyone wishing to appeal any decision made by the Miami Lakes Town Council with respect to any matter considered at this meeting or hearing will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

Any member of the public wishing to speak on a public hearing matter on this Agenda or under public comments for items not on this Agenda, should fill out a speaker card and provide it to the Town Clerk, prior to commencement of the meeting. Any person presenting documents to the Town Council should provide the Town Clerk with a minimum of 15 copies.



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Elderly Affairs Committee  
**Subject:** Elderly Affairs Committee  
**Date:** 9/5/2017

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**Recommendation:**

Please see attached report.

**ATTACHMENTS:**

Description

Elderly Affairs Committee

**Town of Miami Lakes: Elderly Affairs Committee (EAC)**  
**Report to the Town Council: (September 2017)**

**MISSION STATEMENT:** To improve the quality of life for the elderly resident of Town of Miami Lakes through engaged and active support of our seniors.

**MEMBERSHIP:**

Name	Committee Position	Nominated by:
Alexandra Alonso	Chair	Frank Mingo
Dave Oliver	Vice Chair	Frank Mingo
Nancy Rogers	Secretary	Manny Cid
Carlos Alvarez	Member	Ceasar Mestre
Alex Ariano	Member	Marilyn Ruano
Gunilla Crawford	Member	Frank Mingo
Marie Deming	Member	Luis Collazo
George Deming	Member	Marilyn Ruano
Josh Dieguez	Member	Nelson Rodriguez
Arnold Edmundson	Member	Tim Daubert
Pedro Fiallo	Member	Nelson Rodriguez
Jose Garcia	Member	Luis Collazo
Roberto Garcia	Member	Nelson Rodriguez
Aida McCarthy	Member	Ceasar Mestre
Maria Mederos	Member	Tim Daubert
Mayra Poldo	Member	Ceasar Mestre
Michael Salem	Member	Luis Collazo
Sarah Suarez	Member	Tim Daubert
Dottie Wix	Member	Manny Cid
OPEN	Member	Marilyn Ruano

**NOTE:** *There is one open Member position.*

**BUDGET 2017-2018:** *Senior Socials: \$15,200/ Forums: \$2,500/ Field Trips: \$6,000  
Health Fair: \$500/ Lunch & Bingo: \$7,800/ Senior Games: \$2,500/ Program Supplies: \$2,500*

**SCHEDULED EVENTS:**

Event	Date	Budget	Attendance
<b>Socials</b>		<b>\$15,200</b>	
Oktoberfest Social	October 21, 2017		200 Projection
Thanksgiving Luncheon	November 8, 2017		100 Projection
Holiday Social	December 9, 2017		200 Projection
Karaoke Social	March 10, 2018		200 Projection
<b>Forums</b>		<b>\$2,500</b>	
Legal Clinic I	TBD		80 projection
Defensive Drivers Course	TBD		80 projection
Caregivers Resource Forum	TBD		80 projection
Legal Clinic II	TBD		80 projection
Social Security Benefits 101	January 31, 2018		80 projection

<b>Field Trips</b>		<b>\$6,000</b>	
Frost Science Museum	October 11, 2017		60 projection
Gulfstream Racing & Casino	December 2017		60 projection
Zoo Miami	February 6, 2018		60 projection
Key West Day Trip	March 2018		60 projection
Fairchild Tropical Gardens	April 4, 2018		60 projection
Marlins Baseball Games	May – September 2018		60 projection
<b>Lunch Bunch &amp; Bingo</b>		<b>\$7,800</b>	
2nd & 4th Wednesdays	March – Sept. 2018		80 projection
<b>Senior Games</b>		<b>\$2,500</b>	
Domino Tournament	October 20, 2017		50 projection
Softball Game	January 31, 2018		40 projection
Track & Field	February 24, 2018		10 projection
Canasta Tournament	March 16, 2018		50 projection
Bridge Tournament	April 16, 2018		50 projection
Basketball Game	August 25, 2018		10 projection
<b>Health Fair</b>	<b>February 10, 2018</b>	<b>\$500</b>	
<b>Mount Sinai Workshop</b>		<b>IN-KIND</b>	
Breast Cancer Awareness	October 10, 2017		50 projection
Lung Cancer Awareness	November 14, 2017		50 projection
Health Weight Month	January 9, 2018		50 projection
American Heart Month	February 13, 2018		50 projection
National Nutrition Month	March 13, 2018		50 projection
Prostate Cancer Awareness	April 10, 2018		50 projection
Endocrinology Awareness	May 8, 2018		50 projection

#### **FUTURE PROJECTS/CONSIDERATION:**

- The Town of Miami Lakes Elderly Affairs Committee will be working with local established Alzheimer's groups more Alzheimer's Awareness groups in forum formats within the Town of Miami Lakes.
- The Town of Miami Lakes Elderly Affairs Committee encourage the Town of Miami Lakes to continue to leverage its relationship with the Department of Elder Affairs, which provides for additional grant funds awarded to our community for new and innovative programs which enhance the lives of our Seniors.

Respectfully submitted

Alexandra C. Alonso, Chairperson, on behalf of the Town of Miami Lakes Elderly Affairs Committee



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Youth Activities Task Force  
**Subject:** Youth Activities Task Force  
**Date:** 9/5/2017

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**Recommendation:**

Please see attached report.

**ATTACHMENTS:**

Description

Youth Activities Task Force



# Town of Miami Lakes: Youth Activities Task Force

## Report to the Town Council September 5, 2017

### MEMBERSHIP:

Name	Committee Position
Lynn Ancel Matos	Chair
Brian Rodriguez	Vice Chair, Member
David Turino	Secretary, Student
Angela Ortiz	Historian, Member
Marge Wessel	Honorary Member (non voting)
Helen Sofia Roldan	Member
Daniel Gonzalez	Member
Emily Garcia	Member
Daylin Figueroa-Garcia	Member
Michael Turino	Student
Ryan Martinez	Student
Maria Brinos	Member
Victoria Rodriguez	Student
Officer Juan Rodriguez	Town of Miami Lakes Police Officer

## BUDGET 2016-2017: \$41,000

### SCHEDULE of EVENTS:

Event	Date	Budget	Attendance
Youth Employment Initiative	10/08/16	\$ 1,000. for two events, 2nd event 4/8/17	See notes below
Just Run	10/11/16	\$ 1,000.	See notes below
Halloween	10/29/16	\$ 8,500.	See notes below
Moves At The Park	11/18/16	\$21,000.	See notes below
Movies at the Park	12/02/16	Included	See notes below
Movies at the Park	12/16/16	Included	See notes below
Movies at the Park	01/06/17	Included	See notes below
Movies at the Park	01/20/17	Included	See notes below
Movies at the Park	02/03/17	Included	See notes below
Sports Palooza	02/11/17	\$ 1,000	See notes below
Movies at the Park	02/24/17	Included	See notes below
Movies at the Park	03/03/17	Included	See notes below
Bike Rodeo	03/18/17	\$ 2,500.	See notes below
Relay for Life of Miami Lakes	03/25/17	NB, funds moved from Movie Budget	See notes below
Spring Fling	04/15/17	\$ 6,000.	See notes below
Youth Employment Initiative	04/29/17	Included	See notes below
Ice Cream Social*	7/15/17	NB, funds moved from Movie Budget	See notes below

**FUTURE PROJECTS:** Collaboration with other Town Committees and organizations with events and community affairs.

**NEW EVENTS 2016-17:** Sports Palooza Day, \*Ice Cream Social was an added line item

**NUMBER OF EVENT ATTENDEES PROJECTED 2016 - 2017 BUDGET - 9,000**

**SPONSORSHIPS AND REVENUE \$ 18,451.86. As of 7/29/17**

**Prepared By and Approved by The Youth Activities Task Force Committee on 8/2/17**



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Gina M. Inguanzo, Town Clerk  
**Subject:** Approval of Minutes  
**Date:** 9/5/2017

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### **Recommendation:**

#### Approval of Minutes

- July 25, 2017 Regular Council Meeting
- July 26, 2017 Special Call Meeting
- August 8, 2017 Sunshine Minutes
- August 14, 2017 Special Call Meeting
- August 24, 2017 Budget Workshop Meeting

### **ATTACHMENTS:**

#### Description

**July 25, 2017 Regular Council Meeting Minutes**

**July 26, 2017 Special Call Meeting Minutes**

**August 7, 2017 Sunshine Meeting Minutes**

**August 14, 2017 Special Call Meeting Minutes**

**August 24, 2017 Budget Workshop Minutes**

**MINUTES**  
**Regular Council Meeting**  
**July 25, 2017**  
**6:30 p.m.**  
**Government Center**  
**6601 Main Street**  
**Miami Lakes, Florida 33014**

**1. CALL TO ORDER:**

Mayor Manny Cid called the meeting to order at 6:41 p.m.

**2. ROLL CALL:**

The Town Clerk, Gina Inguanzo, called the roll with the following Councilmembers present: Luis Collazo, Tim Daubert, Cesar Mestre, Frank Mingo, and Nelson Rodriguez. Vice Mayor Lama and Mayor Manny Cid were also present.

**3. MOMENT OF SILENCE:**

Invocation was led by Councilmember Ceasar Mestre.

**4. PLEDGE OF ALLEGIANCE:**

Councilmember Tim Daubert led the Pledge of Allegiance.

**5. SPECIAL PRESENTATIONS:**

Juliana Correa, Michael Turino, and Christina Gonzalez were recognized for being appointed as the new Youth Center Council and taking on the responsibility to govern and organize all future youth programs.

Barbara Goleman Baseball Team and Coach, Jose Lopez, were recognized for their hard work and Jose's dedication to coaching the team.

Safari, Ltd. were recognized for receiving a gold level award from the Florida Tobacco Cessation Alliance. Safari Ltd created their Health and Wellness Committee and became the first and only company to be recognized in Miami-Dade County by the American Lung Association for their Tobacco cessation services.

Augustine Reyes, owner of Agua de Violetas, was recognized for contributing to the Town with his perfume product that has been used for years by a lot of residents.

George Perez, former Major to the Miami Lakes Police Department, was recognized for providing excellent service to the Town before he moves on in his career.

Renee Gomez and her husband were recognized as the Home Beautification Contest Winners and for participating and beautifying their home.

Vice Mayor Tony Lama was recognized for serving the Town of Miami Lakes since 2012 and providing excellent leadership to the community. Vice Mayor Lama resigned to continue with his professional career and moved to Seattle, Washington.

## **6. PUBLIC COMMENTS:**

Senator Rene Garcia came before the Town Council to speak on Senate bill 12-47 regarding the condominium reform bill that was passed in Tallahassee.

Miami Gardens Mayor, Oliver Gilbert, came before the Town Council to thank the Council on their participation in the Miami-Dade League of Cities and spoke about coming together with neighboring towns and cities and to work together to support a healthy living environment for the residents.

Miriam Campos came before the Town Council to speak in opposition of how the Town is planning to fill the vacancy of Seat 3, due to Vice Mayor Lama's resignation.

Dr. David Bennett came before the Town Council to wish Vice Mayor Lama good luck on his new career opportunity and speak in favor of item 14B.

Esther Colon came before the Town Council to speak on items 13A and 10E.

Gary Cardenas came before the Town Council to speak in support of item 14H.

Marilyn Ruano came before the Town Council to wish Vice Mayor Lama and his family the best of luck in Seattle.

Lynn Matos came before the Town Council to speak in favor of item 14B.

Ellica Quintero and father, Jose Quintero, came before the Town Council to thank the Council on their support and participation at the Ice Cream Social event.

Claudia Luces came before the Town Council to wish Vice Mayor Lama and his family the best of luck in Seattle.

Gina Inguanzo, Town Clerk, stated on record that a written public comment from Hope Reynolds was received by her office.

Josh Dieguez, via remote public comments, spoke before the Town Council on Vice Mayor Lama's departure and wished him and his family the best of luck in Seattle. He also spoke in support of the nomination of Marilyn Ruano for seat 3.

## **7. ORDER OF BUSINESS (DEFERRALS/ADDITIONS/DELETIONS):**

Mayor Cid pulled item 10C and co-sponsored item 14K along with Councilmembers Rodriguez and Mestre. The Town Manager, Alex Rey, added a report; item 16C.

Councilmember Collazo pulled item 10B. The Town Attorney, Raul Gastesi, added a report; item 17B. Mayor Cid and Councilmember Collazo combined items 14F and 14I. Councilmember Rodriguez withdrew item 14G. Vice Mayor Lama motioned to approve the amended agenda. Councilmember Rodriguez seconded the motion and all were in favor.

## **8. APPOINTMENTS:**

Alejandro Sanchez was appointed to the Veteran's Committee, nominated by Mayor Cid.

Evelio Martinez was appointed to the Veteran's Committee, nominated by Councilmember Collazo.

Carlos Alvarez was reappointed to the Elderly Affair's Committee, nominated by Councilmember Mestre.

Luis Lopez was reappointed to the Public Safety Committee, nominated by Councilmember Mestre.

Robert Ibarra was reappointed to the Neighborhood Improvement Committee, nominated by Councilmember Rodriguez.

Councilmember Daubert moved approve the appointments; Councilmember Rodriguez seconded the motion and all were in favor.

## **9. COMMITTEE REPORTS:**

Gabriela Lopez, Vice Chair of the Miami Lakes Youth Center Council, reported on behalf of David Turino regarding The Spot, a facility that offers a space for students to become engaged through different activities and programs that the Town offers.

## **10. CONSENT CALENDAR:**

Councilmember Mestre made a motion to approve the items on Consent Calendar that were not pulled. Councilmember Rodriguez seconded the motion and all were in favor.

### **A. Approval of Minutes**

- June 6, 2017 Regular Council Meeting
- June 27, 2017 Workshop on Mailers
- June 30, 2017 Special Call Meeting
- June 30, 2017 Emergency Special Call Meeting
- July 11, 2017 Attorney-Client Executive Session

- July 11, 2017 Workshop on Committee Budget's

Approved on Consent.

- B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN AGREEMENT WITH FLORIDA POWER IN LIGHT FOR THE CREATION OF A PILOT PROGRAM TO ARTISTICALLY WRAP FIVE (10) NON-THERMAL UTILITY BOXES WITHIN THE TOWN OF MIAMI LAKES, PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Mirtha Mendez came before the Town Council to speak in opposition of item 10B, wrapping the FPL boxes at the proposed cost.

Alex Rey, Town Manager, explained item 10B and answered questions posed by the Town Council.

Councilmember Collazo made a motion asking the Town Manager and staff to work with FPL for enforcement, to make sure that the FPL boxes are being maintained up to standards and for FPL to look for different alternatives to maintain beautification of the boxes at a lower cost. Vice Mayor Lama seconded the motion and all were in favor.

- C. A RESOLUTION OF THE TOWN COUNCIL OF MIAMI LAKES, FLORIDA, AMENDING THE TOWN'S PARKS AND FACILITIES USER FEE SCHEDULE PURSUANT TO ORDINANCE 11-140 AS CODIFIED IN SECTION 18-7 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

This item was pulled by Mayor Cid.

The Town Manager answered a question posed by Mayor Cid.

Mayor Cid made a motion to approve item 10C. Councilmember Mestre seconded the motion and the motion passed unanimously.

- D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PURSUANT TO ORDINANCE NO. 17-201, EXTENDING BY SIX (6) MONTHS, THE TEMPORARY MORATORIUM UPON ISSUANCE OF ANY DEVELOPMENT ORDERS, INCLUDING BUT NOT LIMITED TO BUILDING PERMITS, CERTIFICATES OF USES, VARIANCES, SITE PLANS, CONDITIONAL USES, OR SPECIAL EXCEPTIONS, PERTAINING TO THE INSTALLATION OR SITTING OF ANY "TELECOMMUNICATIONS TOWERS";

AS MAY BE DEFINED BY FEDERAL LAW, OR ANY "NEW WIRELESS PERSONAL TELECOMMUNICATIONS SERVICES TOWER," "TOWER," OR "DISTRIBUTED ANTENNNA SYSTEM," AS DEFINED IN ORDINANCE 17-201, OR ANY OTHER COMMUNICATIONS FACILITIES WHOLLY CONTAINED OR MOUNTED ON A SINGLE STAND ALONE TOWER, AS MAY BE CONTEMPLATED BY SECTION 337.401, FLORIDA STATUTES; SUCH MORATORIUM BEING EFFECTIVE FOR ANY PUBLIC RIGHTS-OF-WAY WITHIN THE JURISDICTION OF THE TOWN OF MIAMI LAKES, FLORIDA, AS IMPOSED BY SAID ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Approved on Consent.

- E. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, ACCEPTING THE TERMS AND THE EXECUTION OF AN INTERGOVERNMENTAL AGENCY AGREEMENT WITH MIAMI-DADE COUNTY ALLOWING THE TOWN AUTHORITY TO PERFORM, INSTALL AND MAINTAIN CERTAIN TRAFFIC ENGINEERING FUNCTIONS ON MUNICIPAL STREETS; PROVIDING FOR AUTHORITY TO EXECUTE AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS, AND PROVIDING FOR AN EFFECTIVE DATE. (Rey, Cid)

Approved on Consent.

- F. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AWARDING CONTRACTS FOR RFP 2017-25 TREE TRIMMING SERVICES TO SFM SERVICES, INC. AS A PRIMARY CONTRACTOR AND BRIGHTVIEW TREE CARE SERVICES, INC. AS A SECONDARY CONTRACTOR IN AN AMOUNT NOT TO EXCEED \$1,800,000; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Approved on Consent.

#### **11. ORDINANCES- FIRST READING:**

- A. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING TOWN'S EMPLOYEE BONUS ORDINANCE 03-29; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Councilmember Collazo recused himself from item 11A.

The Town Attorney, Raul Gastesi, read the title of ordinance into the record.

Councilmember Rodriguez made a motion to approve the ordinance in first reading and Vice Mayor Lama seconded the motion. The Town Clerk called the roll and the motion passed, 6-1, with Councilmember Collazo recusing himself.

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-301, RELATING TO DEVELOPMENT APPROVAL PROCEDURES; CREATING SECTION 13-301(s), REQUIRING DEVELOPER INFORMATION SESSIONS FOR ZONING APPLICATIONS OF A SPECIFIED DENSITY/INTENSITY THAT ARE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Mingo, Cid, Collazo, Daubert, Lama, Mestre & Rodriguez)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Councilmember Mingo made a motion to approve the ordinance in first reading and Councilmember Collazo seconded the motion. The Town Clerk, Gina Inguanzo, called the roll and all were in favor.

- C. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid, Lama, Collazo, Daubert, Mestre, Mingo & Rodriguez)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Councilmember Rodriguez made a motion to approve the ordinance in first reading and Councilmember Mestre seconded the motion. The Town Clerk called the roll and all were in favor.

- D. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES



IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.  
(Rey)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Mayor Cid opened the public hearing.

There being no one wishing to speak, Mayor Cid closed the public hearing.

Councilmember Daubert made a motion to approve the ordinance in first reading and Councilmember Collazo seconded the motion. The Town Clerk called roll and all were in favor.

## **12. ORDINANCES- SECOND READING (PUBLIC HEARING):**

- A. AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF MIAMI LAKES, FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the Ordinance into the record.

Mayor Cid opened the Public hearing.

Mirtha Mendez came before the Town Council to question the FPL agreement and to what extent the franchise fees will affect what the Town and residents receive.

Armando Fernandez, FPL External Affairs, presented ordinance 12A and answered questions posed by the Town Council.

Patrick Bryan, FPL Attorney, presented ordinance 12A and answered questions posed by the Town Council.

Councilmember Mingo made a motion to reduce the new contract to 3½ percent and everything else remaining equal. Councilmember Mestre seconded the motion. After some discussion between the Council and Town Manager to continue generating the current revenue at the same rate; Councilmember Mingo made a motion to defer item 12A to the September regular council meeting. Councilmember Rodriguez seconded the motion and all were in favor.

## **13. RESOLUTIONS:**

- A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA DECLARING, AS REQUIRED BY SECTION 200.065, FLORIDA STATUTES, THE TOWN'S PROPOSED MILLAGE RATE, ROLLED-BACK RATE COMPUTED PURSUANT TO 200.065(1), FLORIDA STATUTES, AND THE

DATE, TIME, AND PLACE AT WHICH PUBLIC HEARINGS WILL BE HELD TO CONSIDER THE PROPOSED MILLAGE RATE AND THE TENTATIVE BUDGET FOR FISCAL YEAR 2017-2018; AUTHORIZING THE TOWN MANAGER TO CHANGE BUDGET HEARING DATES IF NEEDED; DIRECTING THE TOWN CLERK TO SERVE THIS RESOLUTION ON THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the resolution into the record.

Alex Rey, Town Manager, presented the item and answered questions posed by the Town Council.

Mirtha Mendez came before the Town Council to speak on item 13A and in favor of the roll back percentage rate.

Councilmember Rodriguez motioned to approve the Town Manager's modified recommendation on item 13A and Vice Mayor Lama seconded the motion. The Town Clerk called the roll and all were in favor.

- B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ACCEPT GRANT FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE A GRANT AGREEMENT BETWEEN THE TOWN OF MIAMI LAKES AND THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE MILAKES CANAL BANK STABILIZATION PROJECT PHASE II IN THE AMOUNT OF \$1,000,000; AUTHORIZING THE TOWN MANAGER TO REVISE THE BUDGET APPROVED FOR FISCAL YEAR 2016-17 BY ORDINANCE NO. 16-197, AS AMENDED BY ORDINANCE NO. 17-199; REVISING BUDGETED LINE ITEMS; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY ACTIONS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the resolution into the records.

Vice Mayor Lama moved to approve item 13B and Councilmember Mestre seconded the motion. The Town Clerk called roll and all were in favor.

- C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING AND RATIFYING THE TERMS AND CONDITIONS OF A SETTLEMENT AGREEMENT PERTAINING TO THE FOLLOWING MATTER, TOWN OF MIAMI LAKES VS. PREFERRED GOVERNMENTAL INSURANCE TRUST (CASE NO. 2016-04682-CA-01); AND PROVIDING FOR AUTHORIZATION; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Attorney, Raul Gastesi, read the title of the resolution into the record.

Vice Mayor Lama moved to approve item 13C and Councilmember Daubert seconded the motion. The Town Clerk called the roll and the motion passed unanimously.

- D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING AND RATIFYING THE TERMS AND CONDITIONS OF A SETTLEMENT AGREEMENT AND RELEASE PERTAINING TO THE FOLLOWING MATTERS: F71-1, LLC AND F69-1, LLC V. TOWN OF MIAMI LAKES (CASE NO.: 2016-015279-CA-01); F71-1, LLC V. CEASAR MESTRE (CASE NO.: 2017-006866-CA-01); F71-1, LLC V. MANNY CID (CASE NO.: 2017-006887-CA-01); F71-1, LLC V. TIM DAUBERT (CASE NO.: 2017-006885-CA-01); F71-1, LLC V. TONY LAMA (CASE NO.: 2017-006891-CA-01); F71-1, LLC V. FRANK MINGO (CASE NO.: 2017-006892-CA-01); AND F71-1, LLC V. NELSON RODRIGUEZ (CASE NO.: 2017-006900-CA-01); AND PROVIDING FOR AUTHORIZATION; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE

The Town Attorney, Raul Gastesi, read the title of the resolution into the record.

Matt Remenda, on behalf of the applicant, presented the item and answered questions posed by the Town Council.

The Town Attorney recommended that himself and the Town Manager, Alex Rey, be allowed the authority to proceed along the lines of the proposed settlement, if changes are not believed to be material. Councilmember Mestre made a motion to approve item 13D and Vice Mayor Lama seconded the motion. The Town Clerk, Gina Inguanzo, called the roll and all were in favor.

#### **14. NEW BUSINESS:**

A. RV/Boat Storage Facility (Cid)

Mayor Cid made a motion to request that the Town Manager create a memo by the September 5<sup>th</sup> Regular Council Meeting outlining the historical perspective and gathering staff recommendation on implementing a RV/Boat Storage Facility. Councilmember Rodriguez seconded the motion and all were in favor.

B. Band Shell (Rodriguez)

Councilmember Rodriguez made a motion to evaluate the cost, types of band shells, and possible locations to implement a Band Shell in the Town. Councilmember Daubert seconded the motion. After some discussion, the Town Manager recommended the Council to collaborate under the intergovernmental role for a mutual financial benefit. Councilmember Rodriguez then amended his motion to allow the Town Manager and

staff to gather suggestions to evaluate the cost of a mobile band shell and a fixed location. Vice Mayor Lama seconded the motion and all were in favor.

C. Transfer of Travel Funds (Daubert)

Councilmember Dauber made a motion requesting from the Town Manager that the training funds be moved to travel. Mayor Cid seconded the motion. After some discussion, Councilmember Daubert, by the recommendation of the Town Manager, amended his motion to increase the transfer of funds from \$2,000 to \$4,000 allowing Councilmember Rodriguez to also use travel funds. Vice Mayor Lama seconded the motion and all were in favor.

D. Speed Calming Devices (Mestre)

Councilmember Mestre made a motion allowing staff to propose the best way to install speed calming devices on 79<sup>th</sup> Avenue. Vice Mayor Lama seconded the motion and all were in favor.

E. Date of Special Election (Collazo)

Councilmember Collazo made a motion to amend the Town Charter and to include this question in the August 2018 ballot, in order to synchronize the dates of future Special Elections and August Elections so they are consistent with November elections. Vice Mayor seconded the motion and all were in favor.

F. Town Center District (Cid)

Mayor Cid made a motion that discussions on future mix used development in Town Center and structures exceeding four stories in height be presented before the Town Council for reviewal and approval. During discussion, Councilmember Collazo suggested that the Town Manager consult with Darby Del Salle, Planning Director, and Nancy Strout, the Town's Zoning Attorney; on the best way for the Town Council to participate in future development discussions. Councilmember Collazo seconded the motion and all were in favor.

G. Transfer of Travel Funds (Rodriguez)

This item was originally pulled by Councilmember Rodriguez and later discussed with item 14C.

H. Purple Heart Town (Daubert)

Councilmember Daubert made a motion directing staff to work with the Veteran's Committee and the Purple Heart Foundation to incorporate Miami Lakes into a Purple Heart Town and work with the County to designate parking lots spaces as dual use. Councilmember Mingo seconded the motion and all were in favor.

I. Site Plan Approval for any Structure Exceeding Four Stories (Collazo)

This item was combined with item 14F.

- J. Police Civil Citations (Cid)  
Mayor Cid withdrew item 14J.

- K. Build Out of Miami Lakes Optimist Park (Daubert, Cid, Rodriguez, Mestre)  
Councilmember Daubert made a motion to direct the Town Manager to transfer money from large park mitigation fees to a line item reserve specifically used for the Miami Lakes Optimist Park. After discussing the Optimist Park build out costs, Councilmember Daubert withdrew his motion until the Budget Workshop to further discuss alternative options. Councilmember Daubert then made a motion for staff and the Town Attorney to work on amending the current park ordinance to allow the Town to use Park and Open Space funds accordingly. Councilmember Mingo seconded the motion and all were in favor.

## **15. MAYOR AND COUNCILMEMBER REPORTS:**

- A. Opa Locka Airport (Rodriguez, Cid)  
Mayor Cid and Councilmember Rodriguez reported on their attendance, alongside Councilmember Collazo, at the Board of County Commissioners Meeting regarding the Opa Locka Airport Resolution and to address their concern on the increase of air traffic.
- B. Intention to Nominate (Cid)  
Mayor Cid reported on his intention to nominate Marilyn Ruano to the Seat 3, which became vacant upon the resignation of Vice Mayor Lama.

## **16. MANAGER'S REPORT:**

- A. On Demand Services  
Nicole Singletary, Director of Community Engagement and Outreach, reported on the different on demand services provided by two companies, Freebee and Lyft. The Town Manager recommended the Council to vote to proceed with Freebee for staff to negotiate a contract and present it to Council for approval. Councilmember Rodriguez motioned to allow the Town Manager and staff to start negotiations with Freebee for on demand services in the Town. Vice Mayor Lama seconded the motion and all were in favor.
- B. Commercial Outdoor Fee-Based Instructional Activity License and Use Policy  
Tony Lopez, Chief of Operations, reported on the permit process for individuals that offer instructional activities in the Towns parks, that includes Miami Lakes Optimist Park, Royal Oaks Park, and Miami Lakes Picnic Park West. He also reported on the fee structure for outdoor instructional services. Mayor Cid made a motion to approve item 16B. Councilmember Mestre seconded the motion and all were in favor.

C. State Funding for Transportation Alternative Plan Funding (TAP)

Alex Rey, the Town Manager, recognized Tony Lopez and Andrea Agha for their effort in acquiring \$2 million dollars from TAP to allow the Town of Miami Lakes to create bike lanes and sidewalks on 177<sup>th</sup> CT and 159<sup>th</sup> Avenue.

**17. ATTORNEY'S REPORT:**

A. Pending litigation

The Town Attorney, Raul Gastesi, reported on all pending litigation.

Councilmember Mestre motioned to allow the Town Attorney to enter into the tolling agreement. Councilmember Daubert seconded the motion and all were in favor.

Councilmember Mestre motioned to allow the Town Attorney to file a lawsuit Friday against Fuentes Candia Firm. Vice Mayor Lama seconded the motion and all were in favor.

Councilmember Daubert motioned to transfer \$45,000 from the reserve to the litigation of Lydecker Diaz firm. Councilmember Mestre seconded the motion and all were in favor.

**18. ADJOURNMENT:**

There being no further business to come before the Council, the meeting adjourned at 10:00 p.m.

Approved on this 5<sup>th</sup> day of September 2017.

Attest:

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Manny Cid, Mayor

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Gina M. Inguanzo, Town Clerk

**MINUTES**  
**Special Call Meeting**  
**July 26, 2017**  
**5:00 P.M.**  
**Government Center**  
**6601 Main Street**  
**Miami Lakes, Florida 33014**

**1. CALL TO ORDER:**

Mayor Cid called the meeting to order at 5:03 p.m.

**2. ROLL CALL:**

The Deputy Town Clerk, Nicole Cuellar, called the roll with the following Councilmembers present: Luis Collazo, Tim Daubert, Ceasar Mestre, Frank Mingo, Nelson Rodriguez, and Mayor Manny Cid.

**3. PLEDGE OF ALLEGIANCE:**

Nicole Cuellar led the Pledge of Allegiance.

**4. MOMENT OF SILENCE:**

Lorenzo Cobiella led the invocation.

**5. PUBLIC COMMENTS:**

Carlos Alvarez came before the Town Council to speak in support of the Mayor's nomination of Marilyn Ruano to the new vacant Seat 3.

Mirtha Mendez came before the Town Council to speak in support of Mayor Cid's nomination of Marilyn Ruano to the new vacant Seat 3.

Jose Marques came before the Town Council to speak in favor on Mayor Cid's nomination of Marilyn Ruano to the new vacant Seat 3.

Paula Hagen came before the Town Council to speak in support of Mayor Cid's nomination of Marilyn Ruano to.

Claudia Lucas came before the Town Council to speak in support of Mayor Cid's nomination of Marilyn Ruano to

Jeffery Rodriguez came before the Town Council to speak in support of Mayor Cid's nomination of Marilyn Ruano to

Grace Rocco came before the Town Council to speak in support of Mayor Cid's nomination of Marilyn Ruano to

## **6. ITEMS FOR DISCUSSION:**

### **A. Mayor Cid's nomination of Mrs. Marilyn Ruano to Seat 3.**

Mayor Cid explained to the residents his reasoning for choosing Mrs. Marilyn Ruano to Seat 3 of the Town Council. Mayor Cid made a motion to nominate Mrs. Marilyn Ruano to Seat 3 and Councilmember Mestre seconded the motion. All the Councilmembers expressed their support of nominating Mrs. Marilyn Ruano to Seat 3. The Town Clerk, Gina Inguanzo, called roll and all were in favor.

The Town Clerk, Gina Inguanzo, proceeded to swear in the newly appointed Councilwoman Marilyn Ruano.

Newly appointed Councilwoman Marilyn Ruano thanked the Town Council, Town Staff, residents, and family for their support.

### **B. Election of Vice Mayor**

The Town Clerk, Gina Inguanzo, explained the election process for the title of the Vice Mayor. The Town Council casted their votes for a new Vice Mayor. Town Clerk read out loud each Councilmembers vote. Councilmember Rodriguez received 7 nominations. Mayor Cid then made a motion to nominate Councilmember Nelson Rodriguez as Vice Mayor and Councilmember Daubert seconded the motion. The Town Clerk, Gina Inguanzo, called the roll and all were in favor. Thus, Councilmember Rodriguez became the new Vice Mayor

## **7. ADJOURNMENT:**

There being no further business to come before the Council, the meeting adjourned at 5:44 p.m.



Approved this 5<sup>th</sup> day of September 2017.

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Manny Cid  
Mayor

Attest:

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Gina M. Inganzo  
Town Clerk

**MINUTES**  
**Sunshine Meeting**  
**August 7, 2017**  
**10:30 A.M**  
**Government Center**  
**6601 Main Street**  
**Miami Lakes, Florida 33014**

**1. Call to Order:**

Meeting began at 10:44 a.m.

Present at the meeting were: Mayor Manny Cid, Councilmembers: Luis Collazo, Frank Mingo and Marilyn Ruano. Assistant Town Attorney, Lorenzo Cobiella, Mirtha Mendez, and Nicole Cuellar, Deputy Town Clerk/Assistant to the Council.

**2. Items Discussed:**

**A. Ideas for the future of Miami Lakes & Championed Action Items Update.**

Mayor Cid opened the meeting by introducing Councilwoman Ruano. Lorenzo Cobiella provided a brief explanation to Councilmember Ruano on the Town's Charter recommendation of the strategic plan process.

Councilmembers discussed updates regarding Championed Actions items. Councilmember Ruano is taking the role of the championed items regarding Autism Awareness and Related Disabilities.

Councilmember Mingo then provided an update on Par 3 meeting and he proposed organizing a meeting to inform the residents on the status of Par 3.

Councilmember Collazo then provided an update on one of his championed items, Madden's Hammock. Councilmember Collazo said he has been in contact with George Zamarillo from History Miami, whom is open to discussing the possibility of bringing to Miami Lakes, artifacts from the Florida Museum of Natural History at the University of Florida.

Councilmember Collazo gave a brief update on Senior Center. Mayor Cid then provided an update on his items. Mayor Cid said he is currently working with the school district regarding the transfer of parks of the Optimist Park.

11:35 a.m. Councilmember Mingo stepped out.

There was brief discussion on the status of the MDX Committee. Councilmember Collazo said he would like a follow up meeting.

**3. Actions to be Taken:**

- A. Councilmember Ruano will be meeting with Michael Alessandri from CARD to discuss possible implementation of programs to created awareness in Miami Lakes.
- B. Councilmember Mingo will work with the Town Manager and Tony Lopez to possibly organize an informative meeting on West Lake Reforestation program.
- C. Councilmember Collazo will work with Nicole to try and organize a trip to collect Miami Lakes artifacts from the University of Florida.

**4. Adjournment:**

This meeting was adjourned at 12:01 p.m.

Approved on this 5th day of September 2017.

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Manny Cid, Mayor

Attest:

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Gina M. Inguanzo, Town Clerk

**MINUTES**  
**Special Call Meeting**  
**August 14, 2017**  
**5:30 P.M.**  
**Government Center**  
**6601 Main Street**  
**Miami Lakes, Florida 33014**

**1. CALL TO ORDER:**

Mayor Cid called the meeting to order at 5:41 p.m.

**2. ROLL CALL:**

The Town Clerk, Gina Inguanzo, called the roll with the following Councilmembers present: Luis Collazo via Skype, Tim Daubert, Ceasar Mestre, Frank Mingo, Marilyn Ruano via Skype, Vice Mayor Nelson Rodriguez, and Mayor Manny Cid.

**3. PLEDGE OF ALLEGIANCE:**

Councilmember Tim Daubert led the Pledge of Allegiance.

**4. MOMENT OF SILENCE:**

Vice Mayor Nelson Rodriguez led the invocation.

**5. PUBLIC COMMENTS:**

Jerry Churchill came before the Town Council to speak in opposition of opening the bridges on 154<sup>th</sup> and 170<sup>th</sup>.

Pamela Carrera came before the Town Council to speak in opposition of the opening of the bridges.

Joey Formoso came before the Town Council to speak on pushing the implementation of on-ramps off 170<sup>th</sup> and 154<sup>th</sup> making it accessible onto I-75.

Lazaro Herrera came before the Town Council to speak in opposition of the opening of the bridges and traffic issues; he also suggested an independent study.

Alberto Aguiar came before the Town Council to speak on traffic issues, specifically on 154<sup>th</sup> and against the opening of the bridges.

Lynn Matos came before the Town Council to speak in opposition of the opening of the bridges.

Esther Colon came before the Town Council to speak in opposition of the opening of the bridges.

Maria Kramer came before the Town Council to speak on effectively fighting the opening of the bridges to include an independent study or take on legal action.

Carlos Alvarez came before the Town Council to speak in opposition of the opening of 154<sup>th</sup> bridge and traffic issues.

Mirtha Mendez came before the Town Council to speak in opposition of the opening of the 170<sup>th</sup> and 154<sup>th</sup> bridges. She also expressed her concern on the results provided by the traffic study.

Claudia Luces came before the Town Council to speak on her concern of traffic issues and its impact on the resident's quality of life.

Joshua Dieguez came before the Town Council to speak on the negative impacts the opening of the bridges may cause. He also spoke on possible alternative the Town can include to alleviate this issue.

Susana Herrera came before the Town Council to speak on her concern of the Town's quality of life and how it may be impacted due to the opening of the bridges.

Norman Morejon came before the Town Council to speak in favor of opening the bridges on 154<sup>th</sup> and 170<sup>th</sup> that can also contribute to the quality of life in Hialeah.

Abel Fernandez came before the Town Council to speak in opposition of the opening of the bridges.

## **6. ITEMS FOR DISCUSSION:**

### **A. Report on Impact of Opening & Connecting the NW 170th Street and 154th Bridges over I-75.**

The Town Manager, Alex Rey, explained item 6A and answered questions posed by the Town Council. He recommended to the Town Council that the Town of Miami Lakes should conduct its own traffic study.

Mayor Cid made a motion to allow the Town Manager to begin the procurement process for an independent traffic study of the Town of Miami Lakes. Councilmember Daubert seconded the motion and the motion passed unanimously.

The Town Attorney, Raul Gastesi, addressed the legality on item 6A and answered questions posed by the Town Council. He respectfully requested that the Town Council allow him to take all necessary action to prevent the Miami Dade County Board of County Commissioners from placing items on the agenda concerning the opening of NW 154<sup>th</sup> Street over interstate I-75, and further take any action necessary to prevent the opening of a connecting bridge at NW 154<sup>th</sup> street and interstate I-75, including but not limited to initiation of the conflict resolution procedures as set forth in Chapter 164 of the Florida Statutes and section 186.509 and of filing of legal action against all private or public entities, and to seek any and all remedies available under the law.

Councilmember Mestre moved to allow the Town Attorney to take all necessary actions to prevent Miami Dade County Board of County Commissioners from placing items on the agenda concerning the opening of NW 154<sup>th</sup> street and what the Town Attorney read into the record. Vice Mayor Rodriguez seconded the motion.

Councilmember Mingo motioned to reopen public comments. Councilmember Mestre seconded the motion and all were in favor.

Abel Fernandez came before the Town Council to speak on the inclusion of 170<sup>th</sup> to the resolution.

Alberto Aguiar came before the Town Council to respectfully ask about the downside risk of fighting against the opening of 170<sup>th</sup>.

Mayor Cid closed public comments.

Councilmember Collazo made a motion to amend the resolution by adding language which authorizes the Town Attorney to take all necessary action on preventing the opening of the 170<sup>th</sup> bridge. Councilmember Ruano seconded the motion. During discussion, The Town Attorney answered questions posed by the Town Council regarding the downside risk of adding 170<sup>th</sup> to the resolution. The Town Manager then suggested waiting for the results of the independent study and have the resolution of NW 154<sup>th</sup> Street approved separately. Councilmember Collazo then withdrew his motion amending the resolution on 154<sup>th</sup>.

The Town Attorney, Raul Gastesi, read the resolution into the record.

The Town Clerk, Gina Inguanzo, called the roll on the original motion that was moved by Councilmember Mestre and seconded by Vice Mayor Rodriguez which was to pass the resolution read by the Town Attorney. The motion passed unanimously.

Councilmember Collazo then made a motion to authorize the Town Attorney, Raul Gastesi, to draft a similar resolution on the importance of also keeping the 170<sup>th</sup> bridge closed. Councilmember Daubert seconded the motion and all were in favor.

**7. ADJOURNMENT:**

There being no further business to come before the Council, the meeting adjourned at 7:33 p.m.

Approved this 5<sup>th</sup> day of September 2017.

---

Manny Cid  
Mayor

Attest:

---

Gina M. Inguanzo  
Town Clerk

**MINUTES**  
**Budget Workshop**  
**August 24, 2017**  
**5:30 PM**  
**Council Chambers**  
**6601 Main Street**  
**Miami Lakes, Florida 33014**

**1. CALL TO ORDER:**

Mayor Cid called the meeting to order at 5:50 p.m.

**2. ROLL CALL:**

Present at the workshop were: Mayor Manny Cid, Councilmember Luis Collazo, Councilmember Ceasar Mestre, Councilmember Frank Mingo and Councilmember Marilyn Ruano. Vice Mayor Nelson Rodriguez participated via Skype and Councilmember Tim Daubert was absent.

**3. PLEDGE OF ALLEGIANCE/ MOMENT OF SILENCE:**

Mayor Cid led the Pledge of Allegiance and the invocation.

**4. PUBLIC COMMENTS:**

Esther Colon came before the Town Council to speak on item 5A.

**5. ITEMS FOR DISCUSSION:**

A. Proposed Budget for FY 2017-2018

Andrea Agha, Assistant Town Manager, presented the proposed FY 2017-2018 Budget Overview and Strategic Planning.

Andrea Agha and Alex Rey, Town Manager, answered questions posed by the Town Council.

**6. ADJOURNMENT:**

There being no further business to come before the Council, the meeting adjourned at 8:15 p.m.



Approved this 5th day of September 2017.

---

Manny Cid  
Mayor

Attest:

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Gina M. Inganzo  
Town Clerk



## Town of Miami Lakes Memorandum

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Award of Contracts for RFQ No. 2017-31 Misc. Architectural Servs.  
**Date:** 9/5/2017

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### **Recommendation:**

It is recommended that the Town Council authorize the Town Manager enter negotiations with and, upon mutual agreement, award contracts for miscellaneous architectural and related services on an as needed basis for current and future projects to the following firms in each discipline:

#### General Architectural Services

- MC Harry & Associates, Inc.
- Bermello Ajamil & Partners, Inc.

#### Interior Design

- Bermello Ajamil & Partners, Inc.

#### Landscape Architecture

- Bermello Ajamil & Partners, Inc.
- Miller Legg & Associates, Inc.

The contracts will be for an initial term of three (3) years, with two (2) options to renew for additional one-year terms. Work Orders exceeding the Town Managers' purchasing authority under Section 4(a) of Ordinance 12-142 will be presented to the Town Council for approval.

### **Background:**

The Services to be provided under these contracts consists of providing project specific architectural and related services for the Town on an as needed basis for current and future projects. Pursuant to Florida Statutes 287.055, the Consultants' Competitive Negotiation Act, projects issued under the awarded contracts are limited to those in which the total construction cost is under \$2 million, or study activities under \$200,000.

The Town has need for architectural services in the following disciplines: (1) General Architectural Services; (2) Interior Design; and (3) Landscape Architecture. In the Request for Qualifications ("RFQ"), Proposers were given the opportunity to select which disciplines their Proposal should be considered for.

The Town issued RFQ 2017-31 for Miscellaneous Architectural & Related Services on June 14, 2017. An

advertisement for the solicitation was placed in the June 14, 2017 edition of the Miami Daily Business Review, legal notice was posted in the lobby of Town Hall, and 1,262 firms were notified through DemandStar. Copies of the solicitation were made available through DemandStar and the Town's website.

Prospective Proposers were required to be licensed to offer architectural services in the State of Florida, have a minimum of five (5) years' experience performing design services for similar projects, and have completed at least three (3) projects of a similar size, scope and complexity in the past five (5) years.

By the Proposal Deadline, July 24, 2017, we received seven (7) Proposals from the following firms:

1. Amec Foster Wheeler Environment & Infrastructure, Inc. ("Amec Foster");
2. BEA Architects, Inc. ("BEA");
3. Bermello Ajamil & Partners, Inc. ("Bermello");
4. MC Harry & Associates, Inc. ("MC Harry");
5. Miller Legg & Associates, Inc. ("Miller Legg");
6. Rodriguez Peterson & Porras Architects, Inc. ("RPPA"); and
7. Rodriguez and Quiroga Architects Chartered ("R&Q").

An Evaluation Committee ("Committee") was appointed on August 14, 2017, consisting of the following individuals:

1. Tony Lopez, Chief of Operations and Committee Chairperson, Town of Miami Lakes;
2. Eliezer Palacio, Building Official, Town of Miami Lakes;
3. Vanessa Delgado, Public Works Manager, Town of Miami Lakes; and
4. Raul de la Sierra, Owner and General Contractor, Sierra Commercial Construction, Inc.

The Evaluation Committee met on August 18, 2017 and established the following rankings in each discipline for award in the following manner:

General Architectural Services

1. MC Harry (372);
2. Bermello (338);
3. BEA (287);
4. Amec Foster (286);
5. R&Q (275); and
6. RPPA (215).

Interior Design

1. Bermello (351);
2. R&Q (312); and
3. BEA (282).

Landscape Architecture

1. Bermello (355); and
2. Miller Legg (311).

To ensure that a sufficient pool of firms is available to provide architectural services to the Town, the Committee shortlisted the ranking of "General Architectural Services" to the top five (5) firms, and recommended entering negotiations with the top two (2) firms in each discipline. However, the Manager's recommendation is to enter negotiations and award to the top two (2) firms in General Architectural Services and Landscape Architecture, and to one (1) firm in Interior Design since the Town currently has only one significant interior design project earmarked for these services, the Senior Center at the Senior Village.

MC Harry is a Miami-based architectural and interior design firm with 60 years' experience providing planning

and design services to a variety of municipalities. The personnel proposed to provide services under this contract have collaborated on continuing services and capital improvement contracts with a variety of other municipalities in the South Florida region. In the past, the firm has worked with the Town on various projects including the design of the Government Center that now serves as our Town Hall and the Roberto Alonso Community Center. Our experience has been that the firm is responsive, provides quality design work and has a team of experienced professionals in the area of municipal architectural design.

Bermello is a larger multi-disciplinary firm with over 25 years of experience providing architecture services to many governmental agencies throughout South Florida. Bermello has worked with several municipalities, including City of Doral, City of Pompano Beach, Homestead, and other smaller municipalities on projects that are similar in size and scope to those that would be performed under our contract. As a larger multi-disciplinary firm, Bermello is uniquely capable of tackling a multitude of project types of varied nature and complexity. Bermello worked under the Town's previous continuing architectural services contract and has provided design work mainly for parks and open space areas such as the dog recreation area, 77th Court Beautification Project, and the Town's Beautification Master Plan.

Miller Legg is a 52-year-old company that specializes in providing a wide-array of landscape architectural services. Their team includes a full gamut of landscape professionals comprised of several registered landscape architects, landscape and irrigation designers, landscape inspectors, certified arborists, GIS coordinators, biologists, environmental specialists, and others. Miller Legg has a history with the Town, which includes the design of the NW 170 Greenway project. Our experience with Miller Legg is that they are responsive and provide quality landscape architectural services.

Based on the above, it is recommended that the Town Council authorize the Town Manager to enter negotiations with the two (2) top ranked firms in General Architecture Services and Landscape Architecture, and the top ranked firm in Interior Design and, upon mutual agreement, enter contracts with said firms. Our position is that any of the shortlisted firms, or any of the firms proposing in "Interior Design" or "Landscape Architecture", can provide the services required by the Town. As such, if negotiations with any of the top two (2) ranked firms in each discipline should fail, then negotiations will be conducted with the next highest ranked firm until two (2) firms in General Architecture Services and Landscape Architecture, and one (1) firm in Interior Design agree to contract with the Town.

#### **ATTACHMENTS:**

Description

**Reso-Bermello**

**Reso-MC Harry**

**Reso-Miller**

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH BERMELLO AJAMIL & PARTNERS, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-31 for Miscellaneous Architectural & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of architecture firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received seven (7) Proposals in response thereto, of which, all seven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-31; and

**WHEREAS**, Bermello Ajamil & Partners, Inc. (“Bermello”) was among the top ranked firms to provide architectural services within the following disciplines: General Architectural Services, Interior Design, and Landscape Architecture; and

**WHEREAS**, the Town Manager recommended entering negotiations with Bermello and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with Bermello and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for architectural services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous architectural and related services for construction projects not exceeding \$2,000,000 per project, and study activities not exceeding \$200,000 per study to Bermello, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Architectural & Related Services Contract.

**Section 4.**     **Authorization of Fund Expenditure.**     The Town Manager is

authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Architectural & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Architectural & Related Services Contract in substantially the form attached hereto as Exhibits “A” with Bermello for miscellaneous architectural and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



# **EXHIBIT A**

Standard PSA for Architectural Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH MC HARRY & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-31 for Miscellaneous Architectural & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of architecture firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received seven (7) Proposals in response thereto, of which, all seven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-31; and

**WHEREAS**, MC Harry & Associates, Inc. (“MC Harry”) was among the top ranked firms to provide architectural services within the following disciplines: General Architectural Services; and

**WHEREAS**, the Town Manager recommended entering negotiations with MC Harry and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with MC Harry and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for architectural services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous architectural and related services for construction projects not exceeding \$2,000,000 per project, and study activities not exceeding \$200,000 per study to MC Harry, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Architectural & Related Services Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Architectural & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Architectural & Related Services Contract in substantially the form attached hereto as Exhibits “A” with MC Harry for miscellaneous architectural and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Architectural Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH MILLER LEGG & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-31 FOR GENERAL ARCHITECTURAL & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-31 for Miscellaneous Architectural & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of architecture firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received seven (7) Proposals in response thereto, of which, all seven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-31; and

**WHEREAS**, Miller Legg & Associates, Inc. (“Miller Legg”) was among the top ranked firms to provide architectural services within the following disciplines: Landscape Architecture; and

**WHEREAS**, the Town Manager recommended entering negotiations with Miller Legg and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with Miller Legg and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for architectural services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous architectural and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to Miller Legg, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Architectural & Related Services Contract.

**Section 4.**     **Authorization of Fund Expenditure.**     The Town Manager is



authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Architectural & Related Services Contract.

**Section 5.**     **Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Architectural & Related Services Contract in substantially the form attached hereto as Exhibits “A” with Miller Legg for miscellaneous architectural and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6.** **Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Architectural Services



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Award of Contracts for RFQ 2017-32 Misc. Engineering Servs.  
**Date:** 9/5/2017

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### **Recommendation:**

It is recommended that the Town Council authorize the Town Manager to enter into negotiations with, and upon mutual agreement award contracts to, the following firms for Miscellaneous Civil Engineering and Related Services on an as needed basis for current and future Town projects:

#### General Civil Engineering

- Kimley-Horn & Associates, Inc.
- Marlin Engineering, Inc.
- Amec Foster Wheeler Environment & Infrastructure, Inc.

#### Transportation Engineering

- HW Lochner, Inc.
- The Corradino Group, Inc.
- Kimley-Horn & Associates, Inc.

#### Environmental/Ecological Engineering

- Kimley-Horn & Associates, Inc.
- Calvin, Giordano & Associates, Inc.

#### ESCO/Renewable Energy

- WSP USA, Inc.

The contracts will be for an initial term of three (3) years, with two (2) one-year renewal options. Work Orders exceeding the Town Managers' purchasing authority under Section 4(a) of Ordinance 12-142 will be presented to the Town Council for approval.

### **Background:**

The Services to be provided under these contracts consist of project specific civil engineering and related services for the Town on an as needed basis for current and future projects. Pursuant to Florida Statutes 287.055, the Consultants' Competitive Negotiation Act ("CCNA"), projects issued under the awarded contracts are limited to those in which the total construction cost is under \$2 million, or study activities under \$200,000.

The Town has need for civil engineering services in the following disciplines: (1) General Civil Engineering

Services; (2) Transportation Engineering; (3) Environmental/Ecological Engineering; and (4) ESCO/Renewable Energy Consulting. In the Request for Qualifications (“RFQ”), Proposers were given the opportunity to select which disciplines their Proposal should be considered for.

The Town issued RFQ 2017-32 for Miscellaneous Civil Engineering & Related Services on June 14, 2017. An advertisement for the solicitation was placed in the June 14, 2017 edition of the Miami Daily Business Review, legal notice was posted in the lobby of Town Hall, and 1,737 firms were notified through DemandStar. Copies of the solicitation were made available through DemandStar and the Town’s website.

Prospective Proposers were required to be licensed to offer engineering services in the State of Florida, have a minimum of five (5) years experience performing professional services for similar projects, and have completed at least three (3) projects of a similar size, scope and complexity in the past five (5) years.

By the Proposal Deadline, July 24, 2017, the Town received 11 Proposals from the following firms:

1. Amec Foster Wheeler Environment & Infrastructure, Inc. (“Amec Foster”);
2. Calvin, Giordano & Associates, Inc. (“Calvin”);
3. Chen Moore & Associates, Inc. (“Chen Moore”);
4. David Plummer & Associates, Inc. (“David Plummer”);
5. HW Lochner, Inc. (“HW Lochner”);
6. Kimley-Horn & Associates, Inc. (“KHA”);
7. Marlin Engineering, Inc. (“Marlin”);
8. RJ Behar & Company, Inc. (“RJ Behar”);
9. SRS Engineering, Inc. (“SRS”);
10. The Corradino Group, Inc. (“Corradino”); and
11. WSP USA, Inc. (“WSP”).

An Evaluation Committee (“Committee”) was appointed on August 14, 2017, consisting of the following individuals:

1. Carlos Acosta, Public Works Director;
2. Carmen Olazabal, Public Works CIP Consultant;
3. Michelle Gonzalez, Senior Transportation Planner; and
4. Andrea Agha, Assistant Town Manager.

The Evaluation Committee met on August 22, 2017 and established the following rankings in each discipline for award in the following manner:

#### General Civil Engineering

1. KHA (385 points);
2. Marlin (379 points);
3. Amec Foster (372 points);
4. HW Lochner (368 points);
5. WSP (366 points);
6. Corradino (357 points);
7. Calvin (356 points);
8. David Plummer (346 points);
9. RJ Behar (333 points);
10. Chen Moore\* (333 points); and
11. SRS Engineering (312 points).

\*RJ Behar and Chen Moore tied with the same number of points.

#### Transportation Engineering

1. HW Lochner (389 points);
2. Corradino (382 points);
3. KHA (377 points);
4. Marlin (372 points);
5. WSP (370 points);
6. Calvin (351 points);
7. David Plummer (343 points); and
8. RJ Behar (327 points)

#### Environmental/Ecological Engineering

1. KHA (372 points); and
2. Calvin (349 points)

#### ESCO/Renewable Energy Consulting

1. WSP (369 points).

To ensure that a sufficient pool of firms is available to provide civil engineering services to the Town, the Committee established shortlists for “General Civil Engineering” and “Transportation Engineering,” limiting consideration for award to the top four (4) firms and the top three (3) firms respectively. The firms currently recommended for negotiation and potential awards, which are described in more detail below, are KHA, Marlin, Amec Foster, HW Lochner, Corradino, Calvin, and WSP.

KHA is a multidisciplinary consulting firm that offers its services to federal, state, and local government agencies. KHA has more than 50 years’ experience providing civil engineering services to government agencies. The firm began as a transportation engineering firm and later became known for its specialized expertise in transportation planning and traffic engineering. Furthermore, KHA has had a long-standing working relationship with the Town. The firm has been involved in the development of several Town initiatives, such as the Stormwater Master Plan, the Capital Improvement Plan, and Stormwater Management Report. Aside from the several studies and plans that KHA has helped the Town develop, they have also been integral to the implementation of many of the Town’s large roadway and drainage projects, such as the West Lakes A Drainage Basin Improvements Project and the Lake Patricia Roadway and Drainage Improvements Project.

Marlin is a mid-size firm with a long history of working with public entities throughout the State of Florida. In addition to a history of working with the Florida Department of Transportation (“FDOT”) on complex roadway projects, they have also worked with the City of Doral, the Town of Cutler Bay, the City of Palmetto Bay, and the City of Miami on projects of similar size and scope as those that would be performed under the Town’s contract. This firm also has experience working with the Town, having been our previous provider of miscellaneous civil engineering services. For the most part, Marlin provides the Town with its expertise on traffic study review and analysis. They have also worked on some roadway improvement projects, the most recent ones being the NW 67th Avenue Widening Project and the NW 82nd Avenue and Oak Lane Improvement Project. In the Town’s experience, the firm has responded timely to the Town’s requests, and provides an overall high-quality level of work.

Amec Foster is a national firm that provides environmental consulting, engineering and design, and construction services with more than 3,300 professionals. The firm has offices located in every region of the state, including a local office in Miami Lakes. Due to their large staff and variety of expertise, Amec Foster is uniquely able to offer engineering and environmental services that range from civil, water, and geotechnical

engineering to environmental studies, survey and mapping, water quality monitoring, environmental site assessments, and every area in between. This broad range of expertise provides the Town the flexibility to assign general engineering projects with incidental environmental impacts to a firm that has the necessary

experience in house to handle both types of work. The firm has worked with several large government agencies in South Florida, including the City of Miami and Miami-Dade County.

HW Lochner is a large, full-service, multi-discipline firm that has experience in Transportation Planning, Traffic Engineering, Roadway Design and Transit, Structures, Environmental, Aviation, Construction and Alternative Delivery, among others. The firm specializes in transportation planning, and emphasizes the importance of planning for reliable, convenient, and safe network of transportation options. HW Lochner has extensive experience managing municipal transportation planning, traffic engineering and design projects that lends itself to meeting the demands of our contract, and ensures our needs will be met in a satisfactory manner.

Corradino is a large firm that provides civil, traffic, and roadway engineering services to a variety of municipalities nationwide, including many in South Florida. The firm also has extensive experience working on Safe Routes to School (“SRTS”) and FDOT Local Agency Program (“LAP”) projects, which are of particular interest to the Town due to the LAP projects we have scheduled in the next few years. Corradino, with its knowledge of the LAP process, offers unique input into LAP’s reporting and bidding requirements that will more easily guide us through these processes. They also have extensive experience in plan preparation and development, roadway design, maintenance of traffic, lighting design, utility coordination, signal design, signing and pavement marking design, and drainage design.

Calvin is a large company with more than 80 years of experience providing civil engineering services. The firm has a reputation for high quality work product and taking a personal approach with each of their clients. They take pride in their long-standing relationships with municipal clients, citing the large number of repeat contract awards with their public clients. Calvin has completed work for several South Florida municipalities, including Sunny Isles Beach, Bay Harbor Islands, Surfside, Medley, Bal Harbor, North Bay Village, Miami Springs, Miami Beach, Medley, Palmetto Bay, Weston, Pembroke Pines, Miramar, Hollywood, North Miami Beach, and several more. Their experience working with both large and small municipalities alike, ensures that they are familiar with the type of projects the Town would have as a smaller municipality, while also having the ability to guide Town coordination with larger agencies on multi-agency projects.

WSP is a large, global firm that has provided engineering services for over 130 years. It is one of the oldest continuously operating consultant firms in the United States. The firm employs more than 34,000 professionals with experience in practically every engineering discipline. While the firm is recognized nationally, it has maintained a strong presence locally in the South Florida region, working with agencies such as Miami Beach, Miami-Dade County, South Florida Regional Transportation Authority, and FDOT Districts Four and Six. Having such vast resources at its disposal, WSP has dedicated a large team of qualified and experienced professionals toward serving the Town of Miami Lakes in a wide variety of specialties.

Based on the above, it is recommended that the Town Council authorize the Town Manager to negotiate with, and upon mutual agreement award contracts to, the top three (3) firms for “General Civil Engineering,” and “Transportation Engineering,” and all Proposers for the remaining disciplines. The Town’s position is that any of the shortlisted firms, or any of the firms proposing in “Environmental Engineering” or “ESCO/Renewable Energy Consulting”, can provide the services required by the Town. As such, if negotiations with any of the top ranked, recommended firms in each discipline should fail, then negotiations should be conducted with the next highest ranked firm until the recommended number of firms in each discipline have agreed to contract with the Town.

## **ATTACHMENTS:**

Description

**Reso-AFW**

**Reso-Corradino**

**Reso-Lochner**

**Reso-KHA**

**Reso-CG**

**Reso-WSP**

**Reso-Marlin**



**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, Amec Foster Wheeler Environment & Infrastructure, Inc. (“AFW”) was among the top ranked firms to provide civil engineering services within the following disciplines: General Civil Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with AFW and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with AFW and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**    The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**    The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to AFW, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**    The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit "A" to AFW for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH THE CORRADINO GROUP, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, The Corradino Group, Inc. (“Corradino”) was among the top ranked firms to provide civil engineering services within the following disciplines: Transportation Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with Corradino and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with Corradino and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to Corradino, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit "A" to Corradino for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**



**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH HW LOCHNER, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, HW Lochner, Inc. (“Lochner”) was among the top ranked firms to provide civil engineering services within the following disciplines: Transportation Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with Lochner and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with Lochner and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to Lochner, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4.**     **Authorization of Fund Expenditure.**     The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit “A” to Lochner for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH KIMLEY-HORN & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and



**WHEREAS**, Kimley-Horn & Associates, Inc. (“KHA”) was among the top ranked firms to provide civil engineering services within the following disciplines: General Civil Engineering, Transportation Engineering, and Environmental/Ecological Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with KHA and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with KHA and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to KHA, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit “A” to KHA for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH CALVIN GIORDANO & ASSOCIATES, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, Calvin, Giordano & Associates, Inc. (“CGA”) was among the top ranked firms to provide civil engineering services within the following disciplines: Environmental/Ecological Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with CGA and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with CGA and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to CGA, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit "A" to CGA for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH WSP USA, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, WSP USA, Inc. (“WSP”) was among the top ranked firms to provide civil engineering services within the following disciplines: ESCO/Renewable Energy Consulting; and

**WHEREAS**, the Town Manager recommended entering negotiations with WSP and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with WSP and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to WSP, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.

**Section 4.**     **Authorization of Fund Expenditure.**     The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5.**     **Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit “A” to WSP for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6.** **Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER NEGOTIATIONS WITH MARLIN ENGINEERING, INC. FOR THE AWARD OF CONTRACT 2017-32 FOR GENERAL CIVIL ENGINEERING & RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2017-32 for Miscellaneous Civil Engineering & Related Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on June 14, 2017; and

**WHEREAS**, the RFQ was issued to establish a pool of civil engineering firms to provide professional services on an as needed basis for construction projects not exceeding Two Million (\$2,000,000) per project or for study activities not exceeding Two Hundred Thousand (\$200,000) per study; and

**WHEREAS**, Town received eleven (11) Proposals in response thereto, of which, all eleven were deemed responsive; and

**WHEREAS**, an Evaluation Committee was appointed on August 14, 2017 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2017-32; and

**WHEREAS**, Marlin Engineering, Inc. (“Marlin”) was among the top ranked firms to provide civil engineering services within the following disciplines: General Civil Engineering; and

**WHEREAS**, the Town Manager recommended entering negotiations with Marlin and, upon mutual agreement, awarding a contract in substantially the same form as attached hereto as Exhibit “A”; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes him to enter negotiations with Marlin and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit “A” for civil engineering services on an as needed basis for the Town of Miami Lakes.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the award of contracts for miscellaneous civil engineering and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to Marlin, as set forth herein.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Civil Engineering & Related Services Contract.



**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Civil Engineering & Related Services Contract.

**Section 5. Execution of the Contract.** The Town Manager is authorized to execute the Miscellaneous Civil Engineering & Related Services Contract in substantially the form attached hereto as Exhibit “A” to Marlin for miscellaneous civil engineering and related services, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Standard PSA for Civil Engineering Services



## **Town of Miami Lakes Memorandum**

---

**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Authorization to Piggyback Contracts for IT Equipment  
**Date:** 9/5/2017

---

### **Recommendation:**

It is recommended the Town Council authorize the Town Manager to access (“piggyback”) State Contract No. 43230000-15-02 with SHI International, and Federal GSA Contract GS-35F-059DA with Dell Marketing L.P. for the purchase of information technology equipment and software.

### **Background:**

In 2011, the Town commenced a program to upgrade the Town’s information technology (“IT”) to enhance operational efficiencies as well as provide our residents with greater access to information to improve our government transparency. As part of this program the Town Council approved Resolution 11-897 in May 2011, which allowed the Town to piggyback several state, federal, and cooperative contracts for the procurement of IT hardware and software.

In the last year, the State contract with SHI International (“SHI”) and the Federal contract with Dell Marketing L.P. (“Dell”) have expired and both government agencies have negotiated new contracts with each entity. The new State contract, No. 43230000-15-02, with SHI is effective until January 31, 2019, at which point it will be eligible for another three-year renewal term, and the new Federal contract with Dell, GS-35F-059DA, is effective until November 19, 2020. The Town has spent an average of about \$111,200 per year over the past three years on IT equipment and software, which includes operational expenses such as licenses for Office 365 subscriptions and capital improvement projects such as the Wi-Fi Expansion Project for Town Parks and the network infrastructure for the new Miami Lakes Optimist Clubhouse.

Piggybacking state, federal, and cooperative contracts for the procurement of IT hardware and software gives the Town the necessary flexibility to pursue our goals of better communication, transparency, public participation, and having a smart and connected community in accordance with our Strategic Plan. In addition to saving on administrative costs, utilizing state, federal, and cooperative purchasing contracts has been the most time and cost-efficient means for procuring IT hardware and software. The low pricing available on these contracts is due to the significantly greater volumes of requirements these larger entities can leverage to take advantage of economies of scale. Through these contracts, the Town has access to pricing it would not otherwise be able to obtain through the formal competitive bidding process.

Piggybacking on the federal, state and cooperative contracts and has proven to be the most efficient and cost-effective method for procuring IT hardware and software. For the reasons stated above, it is recommended the Town Council authorize the Town Manager to continue accessing Federal GSA Contract GS-35F-059DA, and State Contract No. 43230000-15-02 for the procurement of IT equipment and software.

**ATTACHMENTS:**

Description

**Resolution - Technology Resolution**

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO UTILIZE STATE CONTRACT NO. 43230000-15-02 AND FEDERAL GSA CONTRACT GS-35F-059DA FOR INFORMATION TECHNOLOGY PURCHASES; WAIVING THE PROCUREMENT PROCEDURES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO ACCESS THE STATE AND FEDERAL CONTRACTS AND TO IMPLEMENT THEIR TERMS AND CONDITIONS; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE CONTRACTS; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Miami Lakes (the “Town”) uses Microsoft and Dell products for its computers and servers, and other IT equipment needs and as such it is required to purchase licenses, warranties, and other hardware or peripheral equipment to continue basic office operations; and

**WHEREAS**, Section 7 of the Town of Miami Lakes Ordinance 12-142 (“the Town’s Procurement Ordinance”) authorizes the purchase of goods and services from current contracts of other public, governmental, state/federal funded or non-profit entities that have resulted from a formal competitive procurement process; and

**WHEREAS**, the State of Florida Department of Management Services has negotiated a Microsoft Business Agreement with reseller SHI International Corp. to provide Microsoft licenses and services to the State, a copy of which is attached as Exhibit “A” (the “SHI Contract”); and

**WHEREAS**, the Federal General Services Administration has negotiated Contract GS-35F-059DA with Dell Marketing L.P. to provide computer equipment and other peripheral hardware to the Federal Government, a copy of which is attached as Exhibit “B” (the “Dell Contract”); and

**WHEREAS**, continued operations within the Town require authorization to access these contracts beyond the \$25,000 limitation provided for in Section 7 of the Town’s Procurement Ordinance for the procurement of Microsoft licenses, Dell computers, and other peripheral IT hardware; and

**WHEREAS**, the Town Council approves of the Town Manager’s recommendations, authorizes access beyond the \$25,000 limitation provided for in Section 7 of the Town’s Procurement Ordinance as it pertains to procurements made under the SHI and Dell Contracts.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contracts.**     The Town Council hereby approves the access of the SHI and Dell Contracts for the purchase of IT equipment and software on an as-needed basis in an amount not to exceed budgeted funds.

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee are authorized to take all steps necessary to utilize the SHI and Dell. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Contracts with SHI International Corp. and Dell

Marketing L.P. for the purchase of IT equipment and software on an as-needed basis per budgeted funds.

**Section 4.**     **Authorization of Fund Expenditure.**     Notwithstanding the limitations imposed upon the Town Manager by the Town's Procurement Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the contracts with SHI International Corp. and Dell Marketing L.P. for the purchase of IT equipment and software on an as-needed basis per budgeted funds.

**Section 5.**     **Execution of the Contract.**     The Town Manager is authorized to execute the Contracts in substantially the form attached hereto as Exhibits "A" and "B" with SHI International Corp. and Dell Marketing L.P. respectively, and to execute any required agreements and/or documents to implement the terms and conditions of the contracts and to execute any extension and/or amendments to the contracts, subject to approval as to form and legality by the Town Attorney.

**Section 6.**     **Effective Date.**     This Resolution shall take effect immediately upon adoption.

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Resolution No. \_\_\_\_\_

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

State Contract No. 43230000-15-02

# **EXHIBIT B**

Federal GSA GS-35F-059DA



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Appointment of Audit Selection Committee  
**Date:** 9/5/2017

---

### **Recommendation:**

It is recommended that the Town Council approve the members of the Auditor Selection Committee for evaluation and recommendation to the Council of an auditing firm.

### **Background:**

Last year, the Town Council approved the award of Contract 2016-46 for Independent Auditing Services to Alberni Caballero & Fierman, LLP. The Contract was awarded for a reduced initial term of one year, with four (4) options to renew for one-year terms. The Town Council further directed staff to return with the item in one year to re solicit the services. Currently, the Contract is set to expire on December 12, 2017.

Pursuant to State Statute 218.39, an auditor selection committee must be appointed by the Town Council.

This committee will be primarily tasked with the selection of a successor firm of licensed certified public accountants to perform the Town's yearly audit. The appointments from the Town Council for members of the Audit Selection Committee are:

- Albert Aguiar
- —
- —
- —

### **ATTACHMENTS:**

Description

**Resolution - Audit Committee**

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; ESTABLISHING AN AUDITOR SELECTION COMMITTEE PURSUANT TO SECTION 218.391, FLORIDA STATUTES; PROVIDING FOR COMMITTEE MEMBERSHIP; PROVIDING FOR THE DUTIES OF THE AUDITOR SELECTION COMMITTEE; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE WITH THE AUDITOR; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 218.391(2) of Florida Statutes requires the governing body of a municipality to establish an auditor selection committee for the primary purpose of selecting an auditor to conduct the Town's financial audit as required by Chapter 218, Florida Statutes; and

**WHEREAS**, the Town previously selected an auditor in 2016 and the existing contract for auditing services is scheduled to expire, thereby necessitating the establishment of the auditor selection committee to assist the Town Council in selection of an auditor through the Request for Proposals ("RFP") process; and

**WHEREAS**, Section 218.391(4)(d), Florida Statutes, authorizes the Town Council to designate the Town Manager to negotiate with the selected firm on behalf of the Town Council; and

**WHEREAS**, the Town Council finds that the establishment of an auditor selection committee and the designation of the Town Manager to negotiate on behalf of the Town Council is in the best interests of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.** The above Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Establishment of Auditor Selection Committee.** The Auditor Selection Committee (the “Committee”) is established pursuant to Section 218.391, Florida Statutes.

**Section 3.**     **Composition of the Committee.** The Committee shall be comprised of Albert Aguiar, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. The Town Manager is authorized to appoint an alternate member should a member of the Committee not be able to serve.

**Section 4.**     **Duties.** The Committee shall have the primary purpose of assisting the Town Council in the selection of an auditor to conduct the Town’s annual financial audit. The Committee’s specific duties shall be those duties specified in Section 218.391(3), Florida Statutes, as may be amended from time to time. The Committee may also serve other audit oversight purposes.

**Section 5.**     **Negotiations.** The Town Manager pursuant to Section 218.391(4)(d), Florida Statutes, is authorized to conduct negotiations with the selection firm on behalf of the Town Council.

**Section 6.**     **Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## **Town of Miami Lakes Memorandum**

---

**To: Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Extension of Contract 2012-29 for Litter/Debris Pick-up & Disposal Services**  
**Date: 9/5/2017**

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### **Recommendation:**

It is recommended that the Town Council authorize a waiver of the competitive solicitation process under Section 5(d) of Ordinance 12-142 and authorize the Town Manager to extend Contract 2012-29 for Litter/Debris Pick-up & Removal for an additional six (6) months while the Town prepares another solicitation for these services. The total cost of this extension is not to exceed \$40,000. Funds are budgeted from the General Fund for these Services.

### **Background:**

The Town has decided to revisit the contract for litter/debris pick-up and disposal services to increase our current level of service, while increasing contractor accountability and efficiency. Our current contract lacks robust mechanisms to evaluate contractor performance to ensure a high-level of quality and cleanliness is delivered to our residents.

The Town is currently revising the contract to be more in line with other performance-based contracts such as the Grounds Maintenance Contract and the Tree Trimming Contract, which require weekly reports, adherence to performance standards, and regularly conducted inspections. The expectation is that with more robust accountability provisions, our level of service will increase without a significant cost increase to the Town. However, to properly revise the contract, Town staff is requesting additional time to draft a contract and solicitation document that will meet the Town's needs. Our current contractor, SFM Services, Inc. has agreed to an extension while the Town prepares another solicitation.

For the reasons stated above, it is recommended that the Town Council authorize a waiver of the competitive solicitation process under Section 5(d) of Ordinance 12-142, and authorize the Town Manager to extend Contract 2012-29 for Litter/Debris Pick-up & Removal Services for up to an additional six (6) months while the Town prepares another solicitation for these services.

### **ATTACHMENTS:**

Description



**Reso**

**Contract Change Order**

**Exhibit A**

**Exhibit B**

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING COMPETITIVE PROCUREMENT PROCEDURE UNDER SECTION 5(D) OF ORDINANCE 12-142; APPROVING THE SIX-MONTH EXTENSION OF CONTRACT 2012-29 FOR LITTER/DEBRIS PICK-UP & DISPOSAL; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AMENDMENT TO CONTRACT 2012-29; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town needs additional time to revisit the contract for litter/debris pick-up and removal services to bring it in line with other performance-based contracts used by the Town.; and

**WHEREAS**, Section 5(d) of the Town of Miami Lakes Ordinance 12-142 (the “Procurement Ordinance”) authorizes the Town Manager to request a waiver of formal competitive bidding requirements when the Town Manager makes a written recommendation that it is not practical to comply with the provisions of Section 5 of Ordinance 12-142; and

**WHEREAS**, the Town intends to issue a solicitation for these services as soon as practicable, however, the Town still requires these services be performed until a new contract can be awarded; and

**WHEREAS**, the current contractor, SFM Services, Inc. has agreed to the amendment and will provide services until a new contract can be awarded; and

**WHEREAS**, the Town Council approves of the Town Manager's recommendations and authorizes the Town Manager to execute an amendment to Contract 2012-29 to continue services for an additional six (6) months.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2. Approval of the Amendment.** The Town Council hereby approves the amendment of Contract 2012-29 with SFM Services, Inc. in substantially the form attached hereto as Exhibit "A" for the continued performance of litter/debris pick-up and removal services for an additional six (6) months in an amount not to exceed budgeted funds.

**Section 3. Authorization of Town Officials.** The Town Manager and/or his designee are authorized to take all steps necessary to amend Contract 2012-29 and to execute said amendment on behalf of the Town, subject to approval as to form and legality by the Town Attorney. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of Contract 2012-29 with SFM Services, Inc. for litter/debris pick-up and removal services per budgeted funds.

**Section 4. Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Town Manager by the Town's Procurement Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and Contract 2012-29 with SFM Services, Inc. for litter/debris pick-up and removal services per budgeted funds.

**Section 5. Execution of the Amendment.** The Town Manager is authorized to execute the amendment in substantially the form attached hereto as Exhibit "A" with SFM Services, Inc. and to execute any required agreements and/or documents to implement the terms and conditions of the contract, subject to approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

---

Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT A**

Amendment to Contract 2012-29  
between  
Town of Miami Lakes  
and  
**SFM Services, Inc.**  
for  
Litter/Debris Pick-up and Disposal



## Change Order Form for Additional Services

<b>Contract Title:</b> Litter/Debris Pick-up & Disposal	<b>Contract No.:</b> 2012-29
<b>Vendor:</b> SFM Services, Inc.	<b>Change Order No.:</b> 2
<b>Agreement Award Date:</b> 8/4/2012	<b>Completion Date:</b> 8/3/2017
<b>Revised Completion Date (prior to this change):</b> 8/3/2017	<b>Extension(s) of Time Previously Approved:</b> 0 days
<b>Revised Completion Date (including this change):</b> 2/3/2018	

Vendor and the Town hereby agree to modify the Contract as follows: (Attach additional pages as necessary)

**Additional Services to be Provided:**

Contract term is hereby extended for an additional six (6) months from its current expiration date.

**Basis for Additional Services:**

The Town will use the additional time to revise the litter/debris pick-up and removal contract for solicitation.

<b>Summary of Agreement Amount</b>	
<i>Original Agreement Amount</i>	\$371,800
Additional Services Previously Approved	\$10,379.28
Adjusted Agreement Value Prior to this Additional Service	\$382,179.28
Cost of Changes for these Additional Services	\$38,909.88 for Additional Six (6) Months
<i>Adjusted Agreement Amount Including this Change</i>	\$421,089.16
Percentage Increase for these Additional Services	9.2%
Total Percent Increase to Date	11.7%
Extension of Time Allowed by this Change -	184 days

This change order is hereby incorporated into and becomes a part of the Agreement..

Accepted By Contractor: \_\_\_\_\_ Date: \_\_\_\_\_

Name (print name of (signatory)): \_\_\_\_\_ Title: \_\_\_\_\_

Accepted By Town Manager \_\_\_\_\_ Date: \_\_\_\_\_

Alex Rey, Town Manager

Town Council Approval Required: ☐ yes ☐ no

If yes, Resolution Number & Date:



## Change Order Form for Additional Services

<b>Contract Title:</b> Litter/Debris Pick-up & Disposal	<b>Contract No.:</b> 2012-29
<b>Vendor:</b> SFM Services, Inc.	<b>Change Order No.:</b> 2
<b>Agreement Award Date:</b> 8/4/2012	<b>Completion Date:</b> 8/3/2017
<b>Revised Completion Date (prior to this change):</b> 8/3/2017	<b>Extension(s) of Time Previously Approved:</b> 0 days
<b>Revised Completion Date (including this change):</b> 2/3/2018	

Vendor and the Town hereby agree to modify the Contract as follows: (Attach additional pages as necessary)

**Additional Services to be Provided:**

Contract term is hereby extended for an additional six (6) months from its current expiration date.

**Basis for Additional Services:**

The Town will use the additional time to revise the litter/debris pick-up and removal contract for solicitation.

<b>Summary of Agreement Amount</b>	
<i>Original Agreement Amount</i>	\$371,800
Additional Services Previously Approved	\$10,379.28
Adjusted Agreement Value Prior to this Additional Service	\$382,179.28
Cost of Changes for these Additional Services	\$40,000 for Additional Six (6) Months
<i>Adjusted Agreement Amount Including this Change</i>	\$422,179.28
Percentage Increase for these Additional Services	9.5%
Total Percent Increase to Date	11.9%
Extension of Time Allowed by this Change -	184 days

This change order is hereby incorporated into and becomes a part of the Agreement..

Accepted By Contractor: \_\_\_\_\_ Date: \_\_\_\_\_

Name (print name of (signatory)): \_\_\_\_\_ Title: \_\_\_\_\_

Accepted By Town Manager \_\_\_\_\_ Date: \_\_\_\_\_

Alex Rey, Town Manager

Town Council Approval Required: ☐ yes ☐ no

If yes, Resolution Number & Date:





**State Term Contract  
No. 43230000-15-02  
Licensing Solutions Providers of Microsoft Software and Services**

This State Term Contract (Contract) is between the State of Florida, Department of Management Services (Department), Division of State Purchasing, an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, FL 32399-0950, and SHI International Corp. (Contractor) with offices at 290 Davidson Ave. Somerset, NJ 08873.

The Department entered into overarching agreements with Microsoft Corporation (Microsoft), to standardize the use of Microsoft products and services in the State of Florida (State). Based on those agreements the Department issued Invitation to Negotiate (ITN), No. 07-43230000-L, Licensing Solutions Providers of Microsoft Software and Services, to identify a Microsoft Licensing Solutions Provider (LSP) to provide Microsoft licenses and services to the State. The Contractor submitted a Responsive reply to the ITN. After negotiations the Department determined that the Contractor's reply is the most advantageous to the State and has decided to enter into this Contract.

Accordingly, and in consideration of the mutual assurances contained in the Contract, the Department and Contractor agree as follows:

**I. Scope of Work**

The Contractor shall provide Microsoft software licenses and maintenance with optional support offerings in accordance with the ITN. The Contractor will coordinate with Customers regarding Microsoft required enrollment agreements which may be a condition of purchasing licenses off of this contract. Those enrollment agreements may further define the scope of services.

**II. Contract Term**

The initial term of this Contract will be three years. The initial contract shall begin on February 1, 2016 or on the last date in which it is signed by all parties, whichever is later.

**III. Renewal Terms**

Upon satisfactory performance by the Contractor and written mutual agreement of the parties, the Contract may be renewed for a renewal term not to exceed three years under the same terms and conditions in place at the time of renewal and with the approved renewal pricing specified in the Contractor's response to the ITN.

**IV. Florida Price**

The Contractor shall provide the Florida Price on the Contractor Florida Price Spreadsheets (Attachments A-D) that are posted on the Department's website.

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Contingent upon approval by the Department Contract Manager, updates to the Contractor Florida Price Spreadsheets shall be posted on the Department's website. The Department reserves the right to remove products or services from the Contractor Florida Price Spreadsheets as needed in the best interest of the State.

Microsoft determines pricing levels and ERP pricing for its products. If Microsoft lowers prices, or pricing levels at any time, the Contractor shall immediately adjust the Florida pricing to reflect the lower prices. The Contractor will monitor Microsoft pricing and if at any time additional discounts become available to the state, Contractor will incorporate the discounts into this contract without delay. Contractor will continually provide the best available pricing to the state.

## **V. Contract**

This document, together with the following exhibits set forth the entire understanding of the parties and supersedes all prior agreements, whether written or oral.

All exhibits listed below are incorporated in their entirety, and form part of this Contract.

The Contract has the following exhibits:

- Exhibit A: Special Contract Conditions
- Exhibit B: General Contract Conditions, Form PUR 1000 (10/06)
- Exhibit C: Contract Forms
- Exhibit D: ITN No. 07-43230000-L
- Exhibit E: Contractor's Response to ITN No. 07-43230000-L

In case of conflict, the documents shall have priority in the following order as listed:

- a) This document
- b) Exhibit D: ITN No. 07-43230000-L
- c) Exhibit A: Special Contract Conditions
- d) Exhibit B: General Contract Conditions
- e) Exhibit C: Contract Forms
- f) Exhibit E: Contractor's Response to ITN No. 07-43230000-L

## **VI. Amendments**

No oral modifications to this Contract are permitted. All modifications to this Contract must be in writing and signed by both parties.

Notwithstanding the order listed in section V, amendments executed after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent amendment will take precedence over anything else that is part of the Contract.

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**VI. Contract Notices**

In addition to the provisions in section 38 of Form PUR 1000 (10/06), contract notices may be delivered by email to the Contractor's designated contact person as prescribed in section VII.

**VII. Contract Management**

The Department employee who is primarily responsible for maintaining the Contract administration file, serves as the contract manager, and is the Department's designated contact person shall be listed on the Department's website.

The Contractor's employee who is primarily responsible for overseeing the Contractor's contract responsibilities and is the Contractor's designated contact person, shall be named by the Contractor and will be listed on the Department's website.

Either Party may appoint a different Contract Manager, which shall not constitute an amendment to the Contract, by sending written notice to the other party. Any communications regarding the Contract shall be addressed to the Contract Manager.


All questions and customer service issues concerning this Contract shall be directed to the designated contact person.

This Contract is executed upon signature of authorized officers as of the dates signed below:

**State of Florida**  
**Department of Management Services:**

**Contractor:**  
**SHI International Corp.**

By: 

By: 

Name: Erin Rodc

Name: Natalie Slowik

Title: Deputy Secretary

Title: Senior Manager - Contracts & RFPs

Date: 1-29-16

Date: 1/28/16

**EXHIBIT A: SPECIAL CONTRACT CONDITIONS**

**1. ELECTRONIC INVOICE**

The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MyFloridaMarketPlace (MFMP). Electronic invoices may be submitted to the Customer through the Ariba Network (AN), whose usage is not mandatory. Contractor may incur a fee for use of the AN. If Contractor chooses to participate in the AN, electronic invoices shall be submitted to the Customer in one of three mechanisms as listed below.

a) **COMMERCE EXTENSIBLE MARKUP LANGUAGE (CXML)**

This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the AN for catalog and non-catalog goods and services. The cXML format is the Ariba preferred method for electronic invoicing.

b) **ELECTRONIC DATA INTERCHANGE (EDI)**

This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an EDI environment. This transaction set can be used for invoicing via the AN for catalog and non-catalog goods and services.

c) **PURCHASE ORDER (P.O.) FLIP VIA ARIBA NETWORK (AN)**

The online process allows suppliers to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their Inbox in their AN account by simply “flipping” the P.O. into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider of MFMP, a State Contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor’s trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

The Contractor may work with the MFMP management team to obtain specific requirements for the Electronic Invoicing upon contract award.

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**2. PRODUCT AND CATALOG SPECIFICATIONS (SERVICES INCLUDED, IF APPLICABLE)**

The Contractor shall submit all Catalog changes to the Department for review. Once approved in writing by the Department, the product Catalog submitted will be incorporated into the Contract. Any additional terms and conditions contained in the product Catalog language will not be included in the Contract.

**3. PURCHASING CARD PROGRAM**

Contractor must accept the Universal card format Purchasing Cards (e.g., American Express, MasterCard, and Visa). However, the Purchasing Card is not the exclusive method of payment (e.g., Purchase Order). The method of ordering and payment (e.g., Purchase Order, Purchasing Card) shall be selected by the Eligible User.

**4. COMPLIANCE WITH LAWS**

The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and authority. For example, Chapter 287, of the Florida Statutes and Rule 60A of the Florida Administrative Code govern the Contract. The Contractor shall comply with section 274A of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of any such applicable laws, roles, codes, ordinances and licensing requirements, shall be grounds for Contract termination.

**5. LIABILITY AND WORKER'S COMPENSATION INSURANCE**

During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract, which, at a minimum, shall be: workers' compensation and employer's liability insurance per Florida statutory limits (currently \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate) covering all employees engaged in any Contract work; commercial general liability coverage on an occurrence basis in the minimum amount of \$500,000 (defense cost shall be in excess of the limit of liability), naming the State as an additional insured; and automobile liability insurance covering all vehicles, owned or otherwise, used in the Contract work, with minimum combined limits of \$500,000, including hired and non-owned liability, and \$5,000 medical payment. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor and is of the essence of the Contract. The Contract shall not limit the types of insurance Contractor may desire to obtain or be required to obtain by law. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized to write policies in Florida.

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**6. DETAIL OF BILLS**

Contractor shall submit bills for fees or other compensation for services or expenses in detail sufficient enough for a proper pre-audit and post-audit. The Department reserves the right to request additional documentation.

**7. PAYMENT TIMEFRAME**

Section 215.422, Florida Statutes (F.S.), provides that agencies have five (5) working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Interest penalties for late payment are also provided for in section 215.422, F.S. A Vendor Ombudsman, whose duties include acting as an advocate for Vendors who may be experiencing problems obtaining timely payment(s) from an Agency, may be contacted at 850-413-5516, or Vendors may call the State Comptroller's Hotline at 1-800-848-3792.

**8. MYFLORIDAMARKETPLACE FEES**

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), Florida Statutes. Payments issued by Agencies or Eligible Users to Vendors for purchases of commodities or contractual services are subject to Transaction Fees, as prescribed by rule 60A-1.031, Florida Administrative Code, or as may otherwise be established by law.

Effective November 1<sup>st</sup>, 2015, through July 1<sup>st</sup>, 2016, in accordance with Senate Bill 2502-A, the Transaction Fees imposed for use of the State of Florida's eProcurement systems will change from one percent (1%) to seven-tenths of one percent (.70%) of the payment issued. The Transaction Fees imposed shall be based upon the date of issuance of the payment.

Any questions regarding the Transaction Fees should be directed to the MFMP Customer Service Desk, at 866-352-3776, [BuyerHelp@myfloridamarketplace.com](mailto:BuyerHelp@myfloridamarketplace.com) or [VendorHelp@myfloridamarketplace.com](mailto:VendorHelp@myfloridamarketplace.com).

Vendors shall submit monthly reports required by the rule. All reports shall be subject to audit. Failure to pay Transaction Fees or submit reports shall constitute grounds for default and exclusion from business with the State of Florida.

**9. PAYMENT AUDIT**

Records of costs incurred under terms of the Contract shall be maintained and made available to the Agency upon request at all times during the period of the Contract, and for a period of three years thereafter. Records of costs incurred shall include the Contractor's general accounting records, together with supporting documents and

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records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Agency for audit.

**10. BILLS FOR TRAVEL**

Travel expenses are not reimbursable unless specifically authorized in writing and shall be reimbursed only in accordance with section 112.061, Florida Statutes.

**11. PUBLIC RECORDS**

Access to Public Records

To the extent required by the Florida Public Records Act, Chapter 119, F.S., the Contractor shall maintain and allow access to public records made or received in conjunction with the Contract.

(a) The Department may unilaterally cancel the Contract for refusal by the Contractor to allow access to all public records, including documents, papers, letters, or other material made or received by the Contractor in conjunction with the Contract, unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.07(1), Florida Statutes.

(b) If, under this Contract, the Contractor is providing services and is acting on behalf of a public agency as provided by section 119.0701(1)(b), Florida Statutes, the Contractor shall:

(1) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(2) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(4) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

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Protection of Trade Secrets or Other Confidential Information

(a) If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 812.081, Florida Statutes, or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as "confidential" when submitted to the Department.

(b) If the Department receives a public records request for contract-related materials designated by the Contractor as "confidential," the Department will provide only the portions of the contract-related materials not designated as "confidential." If the requester asserts a right to examine contract-related materials designated as "confidential," the Department will notify the Contractor. The Contractor will be responsible for responding to and resolving all claims for access to contract-related materials it has designated "confidential."

(c) If the Department is served with a request for discovery of contract-related materials designated "confidential," the Department will promptly notify the Contractor about the request. The Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated "confidential" only if the Contractor fails to take appropriate action, within timeframes established by statute and court rule, to protect the materials designated as "confidential" from disclosure.

(d) The Contractor shall protect, defend, and indemnify the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as "confidential."

**12. RETENTION OF RECORDS**

Contractor shall retain sufficient documentation to substantiate claims for payment under the Contract, and all other records made in relation to the Contract, for five (5) years after expiration or termination of the Contract.

**13. COMMUNICATIONS AND CONFIDENTIALITY**

The Contractor agrees that it shall make no statements, press releases, or publicity releases concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract, without first notifying the Department's Contract Manager or the Department's designated contact person and securing prior written consent. The Contractor shall maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to the Contract and shall comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057,



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F.S. The Contractor's confidentiality procedures shall be consistent with the most recent version of the Customer's security policies, protocols, and procedures. The Contractor shall also comply with any applicable professional standards with respect to confidentiality of information.

**14. INTELLECTUAL PROPERTY**

The parties do not anticipate that any Intellectual Property will be developed or created as a result of the Contract. However, in such case as it is developed or created, any Intellectual Property developed or created as a result of the Contract will belong to and be the sole property of the State of Florida. This provision will survive the termination or expiration of the Contract.

**15. PREFERRED PRICE AFFIDAVIT REQUIREMENT**

The Department will provide the Preferred Pricing Affidavit, incorporated by reference, for completion by an authorized representative of the Contractor attesting that the Contractor is in compliance with the preferred pricing provision in section 4(b) of the PUR 1000 form. The Contractor agrees to submit to the Department, at least annually, the completed Preferred Pricing Affidavit.

**16. EMPLOYMENT VERIFICATION (E-VERIFY)**

In accordance with Executive Order Number 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment of all new employees hired by the Contractor during the Contract term for the services specified in the Contract. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the Contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term.

**17. SCRUTINIZED COMPANY LIST**

In accordance with subsection 287.135(5), Florida Statutes, the Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes.

In accordance with 287.135, the Department may unilaterally terminate this contract if it determines that the Contractor has submitted a false certification as provided under subsection 287.135 (5), or that it is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

**18. CONVICTED AND DISCRIMINATORY VENDOR LISTS**

In accordance with sections 287.133 and 287.134, F.S., an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract.

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**19. TERMINATION FOR CONVENIENCE**

The Contract may be terminated by the Department in whole or in part at any time in the best interest of the State. If the Contract is terminated before performance is completed, the Contractor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed.

**20. TERMINATION FOR CAUSE**

If the Department determines that the performance of the Contractor is not satisfactory, the Department shall have the option of (a) immediately terminating the Contract, or (b) notifying the Contractor of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Contract will be terminated at the end of such time, or (c) take other action deemed appropriate by the Department.

**21. COMMITMENT TO DIVERSITY IN GOVERNMENT CONTRACTING**

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, wartime-, and service-disabled veteran business enterprises in the economic life of the State. The State of Florida Mentor Protégé Program connects minority-, women-, wartime-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915 or [osdhelp@dms.myflorida.com](mailto:osdhelp@dms.myflorida.com).

Upon request, the Contractor shall report to the Department spend with certified and other minority business enterprises. These reports will include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this Contract.

**22. BUSINESS REVIEW MEETINGS**

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department will provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contractor being found in default and contract termination.

**23. ETHICAL BUSINESS PRACTICES**

Contractors shall work in partnership with the State to ensure a successful and valuable Contract. Ethical practices are required of State employees, Contractors, and all parties

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representing the Contractor. All work performed under this Contract will be subject to review by the Inspector General of the State of Florida, and any findings suggesting unethical business practices may be cause for termination or cancellation.

**24. GRATUITIES**

The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State officer or employee.

**25. LOBBYING**

In accordance with sections 11.062 and 216.347, F.S., the Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or an Agency. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract's execution and during the Contract's term.

**26. COOPERATION WITH INSPECTOR GENERAL**

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for three (3) years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State (available at:

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

**27. PRODUCT VARIATIONS/CUSTOM ORDERS**

New variations, substitutions, including custom orders of existing software licenses, maintenance and services awarded under the Contract will be considered by the

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Department if it is in the best interest of the State. All modifications and special requests must receive prior written approval from the Department or Customer before execution of the purchase. Proposed changes are not to compromise the integrity of the software licenses, maintenance or services performance.

**28. DELAYS AND COMPLAINTS**

Delivery delays and service complaints will be monitored on a continual basis. Documented inability to perform under the conditions of the Contract (via the established Complaint to Vendor process (PUR 7017 form) may result in default proceedings and cancellation.

**29. SALES AND USE TAX**

It is the responsibility of the Contractor to determine how work accomplished under this Contract would be subject to a Use Tax as written in the "Sales and Use Tax" Rule 12A-1, Florida Administrative Code. Any questions concerning the Use Tax as it relates to this contract shall be directed to the Taxpayer Assistance section at the Department of Revenue (DOR) (800) 352-3671, Monday through Friday, 8 a.m. to 7 p.m. (ET). For more information visit the DOR website at <http://dor.myflorida.com/dor/businesses>.

**30. INSURANCE, LOSS DEDUCTIBLE**

The Department and Customer shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the contractor providing such insurance. Upon request, the Contractor shall furnish the Department or Customer an insurance certificate proving appropriate coverage is in full force and effect.

**31. INSURANCE, SUBCONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE**

The Contractor shall require each of its subcontractors to secure and maintain during the life of the subcontract, insurance of the type specified in section 5, Liability and Workers Compensation Insurance, or the Contractor may insure the activities of its subcontractors in the Contractor's policy, as specified in the Liability and Workers Compensation Insurance Section of this contract.

**32. INDEMNITY**

The Contractor agrees to indemnify, defend, and hold the State of Florida, its officers, employees and agents harmless from all fines, claims, assessments, suits, judgments, or damages, consequential or otherwise, including court costs and attorney's fees, arising out of any acts, actions, breaches, neglect or omissions of the Contractor, its employees, agents, subcontractors, assignees or delegates related to the Contract, as well as for any determination arising out of or related to the Contract, that the Contractor or Contractor's employees, agents, subcontractors, assignees or delegates are not independent contractors in relation to the Agency. The Contract does not constitute a waiver of sovereign immunity or consent by the Agency or the State of Florida or its subdivisions to suit by third parties.

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**33. PAYMENT FOR CLAIMS**

The Contractor guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Contractor or any employee, agent, subcontractor, assignee or delegate in connection with the Contract.

**34. PERFORMANCE AND PAYMENT BONDS**

The authority and responsibility for requesting performance and payment bonds shall rest with the Customer. Under this contract, the Customer issuing the purchase order may request a performance and payment bond as deemed necessary by the size of the job. Inability to provide a bond shall result in the Contractor being found in default of the contract.

**35. WARRANTY**

The Microsoft standard warranty shall cover all software and the Contractor's warranty shall cover Value-added services provided under this the Contract. The Microsoft standard warranty is required to provide coverage against defective software, workmanship, and failure to perform in accordance with the specifications and required performance criteria. The Microsoft and Contractor warranty coverage must be identical to or exceed the most inclusive of those normally provided for the commodities and contractual services specified herein that are sold to any State or local governments.

Should the Microsoft or Contractor warranty conflict with any requirements, specifications, terms, or conditions of the Contract, the Contract terms and conditions shall prevail.

**36. CONTRACT REVISIONS**

Notwithstanding General Contract Conditions, section 42 of the PUR 1000 Form, the following types of revisions can be made to the Contract upon written authorization by the Department:

- a) Contractor's Company Information and Contacts
- b) Contract Administrator
- c) Contract Forms
- d) Catalog Revisions

The Contractor shall use the appropriate form to request changes to the items listed above and shall submit the form to the Department for review and approval. Only the above listed provisions can be made without a formal Contract amendment. General Contract Conditions, section 42 of the PUR 1000, apply to all other modifications to the Contract.

**37. FINANCIAL CONSEQUENCES**

The Contract Administrator shall periodically review the Contractor's Compliance with the responsibilities and deliverables in the Contract. If the Contractor fails to meet and

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comply with the responsibilities and deliverables established in the Contract, Contractor will be subject to damages. See Exhibit C, section 18 for additional information.

**38. THIRD PARTY AUDITS AND REPORTING REQUIREMENTS**

At no additional cost to the State, the Contractor is to contract with an independent third party firm (to be approved by the Department) to conduct, at a minimum, at least one random sampling of the Contractor's price list per quarter in accordance with Section 6.23 of the ITN.

The Contractor's failure to comply with this requirement may result in financial consequences and may also result in the Contractor's immediate removal from the Contract.

**EXHIBIT B: GENERAL CONTRACT CONDITIONS**

**State of Florida  
PUR 1000  
General Contract Conditions**

**Contents**

1. Definitions.
2. Purchase Orders.
3. Product Version.
4. Price Changes Applicable only to Term Contracts.
5. Additional Quantities.
6. Packaging.
7. Inspection at Contractor's Site.
8. Safety Standards.
9. Americans with Disabilities Act.
10. Literature.
11. Transportation and Delivery.
12. Installation.
13. Risk of Loss.
14. Transaction Fee.
15. Invoicing and Payment.
16. Taxes.
17. Governmental Restrictions.
18. Lobbying and Integrity.
19. Indemnification.
20. Limitation of Liability.
21. Suspension of Work.
22. Termination for Convenience.
23. Termination for Cause.
24. Force Majeure, Notice of Delay, and No Damages for Delay.
25. Changes.
26. Renewal.
27. Purchase Order Duration.
28. Advertising.
29. Assignment.
30. Antitrust Assignment
31. Dispute Resolution.
32. Employees, Subcontractors, and Agents.
33. Security and Confidentiality.
34. Contractor Employees, Subcontractors, and Other Agents.

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- 35. Insurance Requirements.
- 36. Warranty of Authority.
- 37. Warranty of Ability to Perform.
- 38. Notices.
- 39. Leases and Installment Purchases.
- 40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).
- 41. Products Available from the Blind or Other Handicapped.
- 42. Modification of Terms.
- 43. Cooperative Purchasing.
- 44. Waiver.
- 45. Annual Appropriations.
- 46. Execution in Counterparts.
- 47. Severability.

**1. Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.
- (b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.
- (c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.
- (d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

**2. Purchase Orders.** In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract



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manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

**3. Product Version.** Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

**4. Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so

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affects the Contractor that continued performance of the Contract would result in a substantial loss.

**5. Additional Quantities.** For a period not exceeding ninety (90) days from the date of Contract award, the Customer reserves the right to acquire additional quantities up to the amount shown on the Contract but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

**6. Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

**7. Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

**8. Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

**9. Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

**10. Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

**11. Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery

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delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

**12. Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

**13. Risk of Loss.** Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

**14. Transaction Fee.** The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor

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certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

**15. Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

**16. Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

**17. Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer

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in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

**18. Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and section 216.347, F.S. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dhis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

**19. Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the

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foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

**20. Limitation of Liability.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

**21. Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any

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purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

**22. Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

**23. Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**24. Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE**

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**FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

**25. Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

**26. Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

**27. Purchase Order Duration.** Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the



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state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

**28. Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

**29. Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer

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expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

**30. Antitrust Assignment.** The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

**31. Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

**32. Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

**33. Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the

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course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

**34. Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

**35. Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

**36. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**37. Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

**38. Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

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**39. Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

**40. Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

**41. Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

**42. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

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**43. Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

**44. Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**45. Annual Appropriations.** The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

**46. Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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

## **EXHIBIT C: CONTRACT FORMS**

Forms included in this Contract:

- Quarterly Reporting (Excel File)
- Contact Information Worksheet
- Ordering Instructions
- Savings / Price Reductions
- Preferred Pricing Affidavit
- Product Update (Excel File)

### **Quarterly Report (Excel file)**



Quarterly Report  
Form.xlsx

### **Contractor Information Worksheet**



Contractor\_Informati  
on\_Worksheet.doc

### **Ordering Instructions**



Ordering  
Instructions.doc

### **Savings / Price Reductions**



Savings-Reduction  
Verification.doc

### **Preferred Pricing Affidavit**



Preferred Pricing  
Affidavit.docx

### **Product Update**



Product Update  
Form.xls

State Term Contract  
No. 43230000-15-02  
Licensing Solutions Providers of Microsoft Software and Services

**EXHIBIT C: ITN NO. 07-43230000-L**

**ITN No. 07-43230000-L**



Microsoft LSP  
ITN-FINAL- FINAL--R6

# Contract Clause Document

for

Solicitation Number : **FCIS-JB-980001-B**

Refresh Number : **40**

Contract Number : **GS-35F-059DA**

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**52.202-1 DEFINITIONS (NOV 2013)**

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures

**52.203-13 Contractor Code of Business Ethics and Conduct (OCT 2015)**

- (a) Definitions. As used in this clause –

*Agent* means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

*Full cooperation* –

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require –

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from –

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

*Principal* means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

*Subcontract* means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

*United States* means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall –

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall –

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed –

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's

principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall –

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including –

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

**52.203-15 WHISTLEBLOWER PROTECTIONS UNDER THE  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
(JUN 2010)**

(a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act).

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are funded in whole or in part with Recovery Act funds.

**52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER  
RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF  
WHISTLEBLOWER RIGHTS (APR 2014)**

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

**52.203-3 GRATUITIES (APR 1984)**



- (a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative—
- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
  - (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.
- (b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.
- (c) If this contract is terminated under paragraph (a) above, the Government is entitled—
- (1) To pursue the same remedies as in a breach of the contract; and
  - (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)
- (d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

**52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE  
GOVERNMENT (SEP 2006) (ALTERNATE I—OCT 1995)**

- (a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.
- (b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).
- (c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

**52.204-10 REPORTING EXECUTIVE COMPENSATION AND  
FIRST-TIER SUBCONTRACT AWARDS (OCT 2015)**

- (a) *Definitions.* As used in this clause:

“Executive” means officers, managing partners, or any other employees in management positions.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

“Month of award” means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information.

(d) (1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) database (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if –

(i) In the Contractor’s preceding fiscal year, the Contractor received –

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>).

(2) *First-tier subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, the Contractor shall report the following information at <http://www.fsrcs.gov> for that first-tier subcontract. (The Contractor shall follow the

instructions at <http://www.fsr.gov> to report the data.)

- (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
- (ii) Name of the subcontractor.
- (iii) Amount of the subcontract award.
- (iv) Date of the subcontract award.
- (v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
- (vi) Subcontract number (the subcontract number assigned by the Contractor).
- (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
- (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
- (ix) The prime contract number, and order number if applicable.
- (x) Awarding agency name and code.
- (xi) Funding agency name and code.
- (xii) Government contracting office code.
- (xiii) Treasury account symbol (TAS) as reported in FPDS.
- (xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor.* Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <http://www.fsr.gov>, if –

- (i) In the subcontractor's preceding fiscal year, the subcontractor received –

- (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

- (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

- (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless

one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g) (1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at <http://www.fsrs.gov> will be prepopulated with some information from SAM and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the SAM database information is incorrect, the contractor is responsible for correcting this information.

#### **52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (JAN 2014)**

(a) Definition.

*First-tier subcontract* means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed under this contract during the preceding Government fiscal year (October 1–September 30).

(c) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at [www.sam.gov](http://www.sam.gov). (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the contracting officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and DUNS number); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

#### **52.204-15 SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014)**

(a) Definition.

*First-tier subcontract* means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed during the preceding Government fiscal year (October 1–September 30) under this contract for orders that exceed the thresholds established in 4.1703(a)(2).

(c) The Contractor shall report the following information:

(1) Contract number and order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at [www.sam.gov](http://www.sam.gov). (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and DUNS number), and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to

the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

**52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE  
MAINTENANCE (JUL 2015)**

(a) *Definition.* As used in this clause —

*Commercial and Government Entity (CAGE) code* means —

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Contractor and Government Entity (CAGE) Branch to identify a commercial or government entity, or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Contractor and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as an NCAGE code.

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Contractor and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with subpart 42.12. The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Contractor and Government Entity (CAGE) Branch. Requests for changes shall be provided on a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, to the address shown on the back of the DD Form 2051. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau or NSPA to request CAGE changes. Points of contact for National Codification Bureaus and NSPA, as well as additional information on obtaining NCAGE codes, are available at <http://www.dlis.dla.mil/nato/ObtainCAGE.asp>.

(e) Additional guidance for maintaining CAGE codes is available at [http://www.dlis.dla.mil/cage\\_welcome.asp](http://www.dlis.dla.mil/cage_welcome.asp).

**52.204-19 INCORPORATION BY REFERENCE OF  
REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)**

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

**52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR  
INFORMATION SYSTEMS (JUN 2016)**

(a) *Definitions.* As used in this clause —

*Covered contractor information system* means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

*Federal contract information* means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

*Information* means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

*Information system* means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

*Safeguarding* means measures or controls that are prescribed to protect information systems.

(b) *Safeguarding requirements and procedures.*

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

- (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (iii) Verify and control/limit connections to and use of external information systems.
- (iv) Control information posted or processed on publicly accessible information systems.
- (v) Identify information system users, processes acting on behalf of users, or devices.
- (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
- (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
- (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
- (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
- (xii) Identify, report, and correct information and information system flaws in a timely manner.
- (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

#### **52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)**

(a) *Definitions.* As used in this clause—

*Postconsumer fiber* means—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

(b) The Contractor is required to submit paper documents, such as offers, letters, or reports that are printed or copied double-sided on paper containing at least 30 percent postconsumer fiber, whenever practicable, when not using electronic commerce methods to submit information or data to the Government.

#### **52.204-7 SYSTEM FOR AWARD MANAGEMENT (JUL 2013)**

(a) *Definitions.* As used in this provision —

*Data Universal Numbering System (DUNS) number* means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

*Data Universal Numbering System+4 (DUNS+4) number* means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional System for Award Management records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

*Registered in the System for Award Management (SAM) database* means that —

(1) The offeror has entered all mandatory information, including the DUNS number or the DUNS+4 number, the Contractor and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see Subpart 4.14) into the SAM database;



(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record "Active".

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the SAM database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number —

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) Offerors may obtain information on registration at <https://www.acquisition.gov>.

#### **52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)**

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

(1) When no longer needed for contract performance.

(2) Upon completion of the Contractor employee's employment.

(3) Upon contract completion or termination.

(c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

#### **52.207-5 OPTION TO PURCHASE EQUIPMENT (FEB 1995)**

(a) The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.

(b) Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges shall be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.

(c) The purchase conversion cost of the equipment shall be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.

(d) The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site shall be "continuous rental."

#### **52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2014)**

(a) *Definitions.* As used in this clause –

*Inverted domestic corporation* means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

*Subsidiary* means an entity in which more than 50 percent of the entity is owned –

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

(b) If the contractor reorganizes as an inverted domestic corporation or becomes a subsidiary of an inverted domestic corporation at any time during the period of performance of this contract, the Government may be prohibited from paying for Contractor activities performed after the date when it becomes an inverted domestic corporation or subsidiary. The Government may seek any available remedies in the event the Contractor fails to perform in accordance with the terms and conditions of the contract as a result of Government action under this clause.

(c) Exceptions to this prohibition are located at 9.108-2.

(d) In the event the Contractor becomes either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance, the Contractor shall give written notice to the Contracting Officer within five business days from the date of the inversion event.

#### **52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)**

(a) *Definition.* “Commercially available off-the-shelf (COTS)” item, as used in this clause –

(1) Means any item of supply (including construction material) that is –

(i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

(b) The Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of \$35,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the

following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(e) *Subcontracts*. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that –

- (1) Exceeds \$35,000 in value; and
- (2) Is not a subcontract for commercially available off-the-shelf items.

#### **52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212), all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIS consists of two segments —

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by —

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIS is automatically transferred after a waiting period of 14 calendar days, except for —

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the nonpublic segment of FAPIS is covered by a disclosure exemption under the Freedom of Information Act, the Government

official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

#### **52.211-16 VARIATION IN QUANTITY (APR 1984)**

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to:

TBD percent increase

TBD percent decrease

This increase or decrease shall apply to TBD.

#### **52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (MAY 2015) (DEVIATION FEB 2007)**

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the ordering activity may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the credit card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising

under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include —

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on an ordering activity bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer — System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the ordering activity waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*

(1) *Items accepted.* Payment shall be made for items accepted by the ordering activity that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The ordering activity will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the ordering activity makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the ordering activity has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Ordering Activity's convenience.* The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The ordering activity may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall

be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the ordering activity upon acceptance, regardless of when or where the ordering activity takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

(t) *System for Award Management (SAM)*.

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the



contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

**52.212-4 CONTRACT TERMS AND CONDITIONS –  
COMMERCIAL ITEMS (MAY 2015) (ALTERNATE I – MAY 2014)  
(DEVIATION I – FEB 2007)**

(a) *Inspection/Acceptance.*

(1) The ordering activity has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The ordering activity may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The ordering activity will perform inspections and tests in a manner that will not unduly delay the work.

- (2) If the ordering activity performs inspection or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (3) Unless otherwise specified in the contract, the ordering activity will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.
- (4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the ordering activity may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the "hourly rate" attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. \* \_\_\_\_\_. [Insert portion of labor rate attributable to profit.]
- (5) (i) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the ordering activity), the ordering activity may –
- (A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or
- (B) Terminate this contract for cause.
- (ii) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute under the Disputes clause of the contract.
- (6) Notwithstanding paragraphs (a)(4) and (5) above, the ordering activity may at any time require the Contractor to remedy by correction or replacement, without cost to the ordering activity, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to –
- (i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or
- (ii) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.
- (7) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.
- (8) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.
- (9) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace ordering activity-furnished property shall be governed by the clause pertaining to ordering activity property.

(b) *Assignment*. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the credit card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes*. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes*. This contract is subject 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*. –

(1) The clause at FAR 52.202-1, Definitions, is incorporated herein by reference. As used in this clause –

(i) *Direct materials* means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) *Hourly rate* means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are –

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control.

(iii) *Materials* means –

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: \* \_\_\_\_\_\*; and

(E) Indirect costs specifically provided for in this clause.

(iv) *Subcontract* means any contract, as defined in FAR Subpart 2.1, entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays

of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice. –

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include –

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on ordering activity bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer – System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer – Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the ordering activity waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payments. –

(1) *Work performed.* The Government will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:

- (i) *Hourly rate.*

(A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.

(B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) *Materials.*

(A) If the Contractor furnishes materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the –

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the ordering activity will reimburse the Contractor the actual cost of materials (less any rebates, refunds, or discounts received by the contractor that are identifiable to the contract) provided the Contractor –

(1) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(2) Makes these payments within 30 days of the submission of the Contractor's payment request to the ordering activity and such payment is in accordance with the terms and conditions of the agreement or invoice.

(C) To the extent able, the Contractor shall –

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the ordering activity for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) Other Costs. Unless listed below, other direct and indirect costs will not be reimbursed.

(1) *Other Direct Costs.* The ordering activity will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause: \* \_\_\_\_\*.

(2) *Indirect Costs (Material Handling, Subcontract Administration, etc.).* The ordering activity will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: \* \_\_\_\_\*.

(2) *Total cost.* It is estimated that the total cost to the ordering activity for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the ordering activity for performing this contract with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the ordering activity for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the ordering activity has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(3) *Ceiling price.* The ordering activity will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(4) *Access to records.* At any time before final payment under this contract, the Contracting Officer (or authorized representative) will have access to the following (access shall be limited to the listing below unless otherwise agreed to by the Contractor and the Contracting Officer):

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment –

(A) The original timecards (paper-based or electronic);

(B) The Contractor's timekeeping procedures;

(C) Contractor records that show the distribution of labor between jobs or

contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost –

(A) Any invoices or subcontract agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) *Overpayments/Underpayments.* Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The ordering activity within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor's payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the ordering activity has otherwise overpaid on an invoice payment, the Contractor shall –

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the –

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) (i) All amounts that become payable by the Contractor to the ordering activity under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The ordering activity may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final Decisions.* The Contracting Officer will issue a final decision as required by 33.211 if –

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for

payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on –

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a ordering activity check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(viii) Upon receipt and approval of the invoice designated by the Contractor as the “completion invoice” and supporting documentation, and upon compliance by the Contractor with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) *Release of claims.* The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the ordering activity, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the Contractor.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the ordering activity is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the ordering activity against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(8) *Prompt payment.* The ordering activity will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.



(9) *Electronic Funds Transfer (EFT)*. If the ordering activity makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(10) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the ordering activity's convenience*. The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system that have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon written request, with adequate assurances of future performance. Subject to the terms of this contract, the Contractor shall be paid an amount computed under paragraph (i) Payments of this clause, but the "hourly rate" for labor hours expended in furnishing work not delivered to or accepted by the Government shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified in paragraph (a)(4) of this clause, the portion of the "hourly rate" attributable to profit shall be 10 percent. In the event of termination for cause, the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the ordering activity upon acceptance, regardless of when or where the ordering activity takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under

this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

#### **52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JUN 2016) (ALTERNATE II – MAR 2016)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Number	Title	Clause/Provision
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)	Clause
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I -- OCT 1995)	Clause
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER	Clause

	SUBCONTRACT AWARDS (OCT 2015)	
52.204-14	SERVICE CONTRACT REPORTING	Clause
	REQUIREMENTS (JAN 2014)	
52.204-15	SERVICE CONTRACT REPORTING	Clause
	REQUIREMENTS FOR	
	INDEFINITE-DELIVERY CONTRACTS	
	(JAN 2014)	
52.209-6	PROTECTING THE GOVERNMENTS	Clause
	INTEREST WHEN SUBCONTRACTING	
	WITH CONTRACTORS DEBARRED,	
	SUSPENDED, OR PROPOSED FOR	
	DEBARMENT (OCT 2015)	
52.219-13	NOTICE OF SET-ASIDE OF ORDERS	Clause
	(NOV 2011)	
52.219-14	LIMITATIONS ON SUBCONTRACTING	Clause
	(NOV 2011)	
52.219-16	LIQUIDATED	Clause
	DAMAGES--SUBCONTRACTING PLAN	
	(JAN 1999)	
52.219-27	NOTICE OF SERVICE-DISABLED	Clause
	VETERAN-OWNED SMALL BUSINESS	
	SET-ASIDE (NOV 2011)	
52.219-28	POST-AWARD SMALL BUSINESS	Clause
	PROGRAM REREPRESENTATION (JUL	
	2013)	
52.219-29	NOTICE OF SET-ASIDE FOR, OR	Clause
	SOLE SOURCE AWARD TO,	
	ECONOMICALLY DISADVANTAGED	
	WOMEN-OWNED SMALL BUSINESS	
	CONCERNS (DEC 2015)	
52.219-3	NOTICE OF TOTAL HUBZONE	Clause
	SET-ASIDE OR SOLE SOURCE	
	AWARD (NOV 2011)	
52.219-30	NOTICE OF SET-ASIDE FOR, OR	Clause
	SOLE SOURCE AWARD TO,	
	WOMEN-OWNED SMALL BUSINESS	
	CONCERNS ELIGIBLE UNDER THE	
	WOMEN-OWNED SMALL BUSINESS	
	PROGRAM (DEC 2015)	
52.219-6	NOTICE OF TOTAL SMALL BUSINESS	Clause
	SET-ASIDE (NOV 2011)	
52.219-8	UTILIZATION OF SMALL BUSINESS	Clause
	CONCERNS (OCT 2014)	
52.219-9	SMALL BUSINESS	Clause
	SUBCONTRACTING PLAN (OCT 2015)	
	(ALTERNATE II -- OCT 2001)	
52.222-19	CHILD LABOR - COOPERATION WITH	Clause
	AUTHORITIES AND REMEDIES (FEB	

	2016)	
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)	Clause
52.222-26	EQUAL OPPORTUNITY (APR 2015)	Clause
52.222-3	CONVICT LABOR (JUN 2003)	Clause
52.222-35	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)	Clause
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)	Clause
52.222-37	EMPLOYMENT REPORTS ON VETERANS (FEB 2016)	Clause
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)	Clause
52.222-50	COMBATING TRAFFICKING IN PERSONS (MAR 2015)	Clause
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)	Clause
52.223-13	ACQUISITION OF EPEAT--REGISTERED IMAGING EQUIPMENT (JUN 2014)	Clause
52.223-14	ACQUISITION OF EPEAT--REGISTERED TELEVISIONS (JUN 2014)	Clause
52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)	Clause
52.223-16	ACQUISITION OF EPEAT--REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015)	Clause
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)	Clause
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)	Clause
52.225-5	TRADE AGREEMENTS (FEB 2016)	Clause
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER -- SYSTEM FOR AWARD MANAGEMENT (JUL 2013)	Clause
52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	Clause

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Number	Title	Clause/Provision
52.222-17	NONDISPLACEMENT OF QUALIFIED	Clause

	WORKERS (MAY 2014)	
52.222-41	SERVICE CONTRACT LABOR	Clause
	STANDARDS (MAY 2014)	
52.222-42	STATEMENT OF EQUIVALENT RATES	Clause
	FOR FEDERAL HIRES (MAY 2014)	
52.222-43	FAIR LABOR STANDARDS ACT AND	Clause
	SERVICE CONTRACT LABOR	
	STANDARDSâ##PRICE ADJUSTMENT	
	(MULTIPLE YEAR AND OPTION	
	CONTRACTS) (MAY 2014)	
52.222-51	EXEMPTION FROM APPLICATION OF	Clause
	THE SERVICE CONTRACT LABOR	
	STANDARDS TO CONTRACTS FOR	
	MAINTENANCE, CALIBRATION, OR	
	REPAIR OF CERTAIN	
	EQUIPMENT--REQUIREMENTS (MAY	
	2014)	
52.222-53	EXEMPTION FROM APPLICATION OF	Clause
	THE SERVICE CONTRACT LABOR	
	STANDARDS TO CONTRACTS FOR	
	CERTAIN	
	SERVICES--REQUIREMENTS (MAY	
	2014)	
52.222-55	MINIMUM WAGES UNDER	Clause
	EXECUTIVE ORDER 13658 (DEC 2015)	

(d) *Comptroller General Examination of Record.* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to--

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause,

the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than--

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause –

(A) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

(B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).

(C) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(D) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(E) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).

(F) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(G) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(H) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(I) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

(J) . (1) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

. (2) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

(K) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) (41 U.S.C. chapter 67).

(L) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) (41 U.S.C. chapter 67).

(M) 52.222-54, Employment Eligibility Verification (Oct 2015) (Executive Order 12989).

(N) 52.222-55, Minimum Wages Under Executive Order 13658 (Mar 2016).

(O) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations.

(May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(P) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

[Note to Offerors: If choosing not to accept orders funded in whole or in part by the American Recovery and Reinvestment Act (ARRA), this clause will be replaced with the base clause, meaning that Alternate II is not applicable.]

**52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA — MODIFICATIONS (OCT 2010) (ALTERNATE IV — OCT 2010)**

(a) Submission of certified cost or pricing data is not required.

(b) Provide data described below: *[Insert description of the data and the format that are required, including the access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]*

"Pricing information as described in SCP-FSS-001N, SCP-FSS-001S, SCP-FSS-004 and 552.212-70".

**52.216-18 ORDERING (OCT 1995) (DEVIATION II -- FEB 2007)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through Contract expiration date.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the ordering activity deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

**52.216-19 ORDER LIMITATIONS (OCT 1995) (DEVIATION II – FEB 2007)16.506(b)**

(a) *Minimum order.* When the ordering activity requires supplies or services covered by this contract in an amount of less than \$100, the ordering activity is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor –

- (1) Any order for a single item in excess of 132-3 \$500,000 per order
- 132-4 \$500,000 per order
- 132-8 \$500,000 per order
- 132-9 \$500,000 per order
- 132-12 \$500,000 per order
- 132-32 \$500,000 per order



132-33 \$500,000 per order  
132-34 \$500,000 per order  
132-40 \$500,000 per order  
132-50 \$ 25,000 per order  
132-51 \$500,000 per order  
132-52 \$500,000 per order  
132-53 \$500,000 per order  
132-54 \$500,000 per order  
132-55 \$500,000 per order  
132-56 \$500,000 per order  
132-60A \$1,000,000 per order  
132-60B \$1,000,000 per order  
132-60C \$1,000,000 per order  
132-60D \$1,000,000 per order  
132-60E \$1,000,000 per order  
132-60F \$1,000,000 per order  
132-61 \$1,000,000 per order  
132-62 \$1,000,000 per order  
132-99 \$1,000,000 per order  
132-100 \$ 150,000 per order;

(2) Any order for a combination of items in excess of 132-3 \$500,000 per order

132-4 \$500,000 per order  
132-8 \$500,000 per order  
132-9 \$500,000 per order  
132-12 \$500,000 per order  
132-32 \$500,000 per order  
132-33 \$500,000 per order  
132-34 \$500,000 per order  
132-40 \$500,000 per order  
132-50 \$ 25,000 per order  
132-51 \$500,000 per order  
132-52 \$500,000 per order  
132-53 \$500,000 per order  
132-54 \$500,000 per order  
132-55 \$500,000 per order  
132-56 \$500,000 per order  
132-60A \$1,000,000 per order  
132-60B \$1,000,000 per order  
132-60C \$1,000,000 per order  
132-60D \$1,000,000 per order  
132-60E \$1,000,000 per order  
132-60F \$1,000,000 per order  
132-61 \$1,000,000 per order  
132-62 \$1,000,000 per order  
132-99 \$1,000,000 per order  
132-100 \$ 150,000 per order; or

(3) A series of orders from the same ordering office within 5 days that together call for quantities exceeding the limitation in paragraph (b) (1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the ordering activity is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to

the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the ordering activity may acquire the supplies or services from another source.

#### **52.216-22 INDEFINITE QUANTITY (OCT 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the completion of customer order, including options, 60 months following the expiration of the basic contract ordering period [*insert date*].

#### **52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 calendar days of contract expiration..

#### **52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within .; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least . days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed . (months) (years).

#### **52.219-13 NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)**

The Contracting Officer will give notice of the order or orders, if any, to be set aside for small business concerns identified in 19.000(a)(3) and the applicable small business program. This notice, and its restrictions, will apply only to the specific orders that have been set aside for any of the small business

concerns identified in 19.000(a)(3).

#### **52.219-14 LIMITATIONS ON SUBCONTRACTING (NOV 2011)**

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for small business concerns or 8(a) concerns;

(2) Part or parts of a multiple-award contract that have been set aside for small business concerns or 8(a) concerns; and

(3) Orders set aside for small business or 8(a) concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for—

(1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will, perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

#### **52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)**

(a) “Failure to make a good faith effort to comply with the subcontracting plan”, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled “Small Business Subcontracting Plan,” or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled “Small Business Subcontracting Plan,” the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to

make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

#### **52.219-27 NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011)**

(a) *Definition.* “Service-disabled veteran-owned small business concern”—

(1) Means a small business concern —

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) “Service-disabled veteran” means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns; and

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(d) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for —

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other service-disabled veteran-owned small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other service-disabled veteran-owned small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other service-disabled veteran-owned small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other service-disabled veteran-owned small business concerns.

(e) A joint venture may be considered a service-disabled veteran owned small business concern if —

(1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and

(3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation.

(4) The joint venture meets the requirements of 13 CFR 125.15(b)

(f) Any service-disabled veteran-owned small business concern (nonmanufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

#### **52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)**

(a) *Definitions.* As used in this clause —

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

*Small business concern* means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts –

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update. (f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it \_\_\_\_\_ is, \_\_\_\_\_ is not a small business concern under NAICS Code \_\_\_\_\_ assigned to contract number \_\_\_\_\_. [*Contractor to sign and date and insert authorized signer's name and title*].

\_\_\_\_\_  
Contractor Signature / Date

\_\_\_\_\_  
Authorized Signer's Name / Title

Note: Regulation 52.219-28

**52.219-29 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE  
AWARD TO, ECONOMICALLY DISADVANTAGED  
WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)**

(a) *Definitions.* "Economically disadvantaged women-owned small business (EDWOSB) concern" means —

A small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

“*WOSB Program Repository*” means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability*. This clause applies only to —

- (1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, EDWOSB concerns;
- (2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns; and
- (3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General*.

- (1) Offers are solicited only from EDWOSB concerns. Offers received from concerns that are not EDWOSB concerns will not be considered.
- (2) Any award resulting from this solicitation will be made to an EDWOSB concern.
- (3) The contracting officer will ensure that the apparent successful offeror has provided all required documents to the WOSB Program Repository. The contract will not be awarded until all required documents are received.

(d) *Agreement*. An EDWOSB concern agrees that in the performance of the contract for —

- (1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;
- (2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);
- (3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and
- (4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

(e) *Joint Venture*. A joint venture may be considered an EDWOSB concern if —

- (1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);
- (2) The EDWOSB participant of the joint venture is designated in System for Award Management as an EDWOSB concern;
- (3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —

- (i) Setting forth the purpose of the joint venture;
  - (ii) Designating an EDWOSB concern as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;
  - (iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the EDWOSB;
  - (iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB contract; and
  - (v) Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB contract performed by the joint venture.
- (4) The joint venture performs the applicable percentage of work required in accordance with paragraph (d) above; and
- (5) The procuring activity executes the contract in the name of the EDWOSB or joint venture.
- (f) Nonmanufacturer. An EDWOSB concern that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on an EDWOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

### **52.219-3 NOTICE OF HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)**

- (a) *Definitions.* See 13 CFR 125.6(e) for definitions of terms used in paragraph (c).
- (b) *Applicability.* This clause applies only to —
- (1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, HUBZone small business concerns;
  - (2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns; and
  - (3) Orders set-aside for HUBZone small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).
- (c) *General.*
- (1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.
  - (2) Any award resulting from this solicitation will be made to a HUBZone small business concern.
- (d) *Agreement.* A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for —
- (1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;
  - (2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or



other HUBZone small business concerns;

(3) General construction.

(i) At least 15 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors; and

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns; or

(4) Construction by special trade contractors.

(i) At least 25 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns.

(e) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the aggregate of the HUBZone small business participants.

(f) (1) When the total value of the contract exceeds \$25,000, a HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business concern manufacturers.

(2) When the total value of the contract is equal to or less than \$25,000, a HUBZone small business concern nonmanufacturer may provide end items manufactured by other than a HUBZone small business concern manufacturer provided the end items are produced or manufactured in the United States.

(3) Paragraphs (f)(1) and (f)(2) of this section do not apply in connection with construction or service contracts.

(g) *Notice.* The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

**52.219-30 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE  
AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS  
ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS**

**PROGRAM (DEC 2015)**

(a) *Definitions.* “Women-owned small business (WOSB) concern eligible under the WOSB Program” (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

“WOSB Program Repository” means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to —

- (1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;
- (2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program; and
- (3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

- (1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB program shall not be considered.
- (2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.
- (3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Agreement.* A WOSB concern eligible under the WOSB Program agrees that in the performance of the contract for —

- (1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;
- (2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);
- (3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and
- (4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including cost of materials).

(e) *Joint Venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if —

- (1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);

(2) The WOSB participant of the joint venture is designated in the System for Award Management as a WOSB concern eligible under the WOSB Program;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —

(i) Setting forth the purpose of the joint venture;

(ii) Designating a WOSB concern eligible under the WOSB Program as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the WOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the WOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the WOSB contract performed by the joint venture.

(4) The joint venture must perform the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

(f) Nonmanufacturer. A WOSB concern eligible under the WOSB Program that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on a WOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

#### **52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)**

(a) *Definition.*

"*Small business concern*," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been totally set aside or reserved for small business concerns; and

(2) Orders set aside for small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(d) *Agreement.*

A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

#### 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014)

(a) *Definitions.* As used in this contract —

*HUBZone small business concern* means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

*Service-disabled veteran-owned small business concern* —

(1) Means a small business concern —

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) *Service-disabled veteran* means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

*Small business concern* means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

*Small disadvantaged business concern*, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that —

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by —

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

*Veteran-owned small business concern* means a small business concern —

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

*Women-owned small business concern* means a small business concern —

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d) (1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include —

(i) HUBZone small business database search application Web page at [http://dsbs.sba.gov/dsbs/search/dsp\\_searchhubzone.cfm](http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm); or <http://www.sba.gov/hubzone>;

(ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC 20416; or

(iii) The SBA HUBZone Help Desk at [hubzone@sba.gov](mailto:hubzone@sba.gov).

#### **52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2015) (ALTERNATE II – OCT 2001)**

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause —

*Alaska Native Corporation (ANC)* means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

*Commercial item* means a product or service that satisfies the definition of commercial item in section

2.101 of the Federal Acquisition Regulation.

*Commercial plan* means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

*Electronic Subcontracting Reporting System (eSRS)* means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

*Indian tribe* means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

*Individual contract plan* means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

*Master plan* means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

*Subcontract* means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(2) A statement of —

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
  - (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
  - (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
  - (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
  - (vii) Total dollars planned to be subcontracted to women-owned small business concerns.
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to —
- (i) Small business concerns;
  - (ii) Veteran-owned small business concerns;
  - (iii) Service-disabled veteran-owned small business concerns;
  - (iv) HUBZone small business concerns;
  - (v) Small disadvantaged business concerns; and
  - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (*e.g.*, existing company source lists, the System for Award Management (SAM), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and womenowned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.*, outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with —
- (i) Small business concerns (including ANC and Indian tribes);
  - (ii) Veteran-owned small business concerns;
  - (iii) Service-disabled veteran-owned small business concerns;
  - (iv) HUBZone small business concerns;
  - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
  - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility with further subcontracting possibilities) to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will —

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.*, SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating —



- (A) Whether small business concerns were solicited and, if not, why not;
- (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
- (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
- (D) Whether HUBZone small business concerns were solicited and, if not, why not;
- (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
- (F) Whether women-owned small business concerns were solicited and, if not, why not; and
- (G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact —

- (A) Trade associations;
- (B) Business development organizations;
- (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; AND
- (D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through —

- (A) Workshops, seminars, training, etc.; and
- (B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

- (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
- (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
- (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
- (4) Confirm that a subcontractor representing itself as a HUBZone small business concern is

identified as a certified HUBZone small business concern by accessing the SAM database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided —

(1) the master plan has been approved,

(2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and

(3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with —

(1) the clause of this contract entitled "Utilization of Small Business Concerns," or

(2) an approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or

subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semiannually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the *ISR* resides —

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*. (i) Reports submitted under individual contract plans —

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$700,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject *SSRs* in *eSRS*, including *SSRs*

submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan —

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

**52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES  
(FEB 1997)**

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

**52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS  
(MAY 2014)**

(a) "Service employee", as used in this clause, means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(b) The Contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those service employees employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the service employees were hired, a right of first refusal of employment under this contract in positions for which the service employees are qualified.

(1) The Contractor and its subcontractors shall determine the number of service employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor Contractor employed in connection with performance of the work.

(2) Except as provided in paragraph (c) of this clause, there shall be no employment opening under this contract, and the Contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation.

(i) The successor Contractor and its subcontractors shall make a bona fide express offer of employment to each service employee as provided herein and shall state the time within which the service employee must accept such offer, but in no case shall the period within which the service employee must accept the offer of employment be less than 10 days.

(ii) The successor Contractor and its subcontractors shall decide any question concerning a service employee's qualifications based upon the individual's education and

employment history, with particular emphasis on the employee's experience on the predecessor contract, and the Contractor may utilize employment screening processes only when such processes are provided for by the contracting agency, are conditions of the service contract, and are consistent with Executive Order 13495.

(iii) Where the successor Contractor does not initially offer employment to all the predecessor contract service employees, the obligation to offer employment shall continue for 90 days after the successor contractor's first date of performance on the contract.

(iv) An offer of employment will be presumed to be bona fide even if it is not for a position similar to the one the employee previously held, but is one for which the employee is qualified, and even if it is subject to different employment terms and conditions, including changes to pay or benefits. (See 29 CFR 9.12 for a detailed description of a bonafide offer of employment).

- (c) (1) Notwithstanding the obligation under paragraph (b) of this clause, the successor Contractor and any subcontractors (i) may employ under this contract any service employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (ii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Labor Standards statute, 41 U.S.C. 6701(3), and (iii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor whom the Contractor or any of its subcontractors reasonably believes, based on the particular service employee's past performance, has failed to perform suitably on the job (see 29 CFR 9.12(c)(4) for additional information). The successor Contractor bears the responsibility of demonstrating the appropriateness of claiming any of these exceptions.

(2) In addition, any Contractor or subcontractor that has been certified by the U.S. Small Business Administration as a HUBZone small business concern must ensure that it complies with the statutory and regulatory requirements of the HUBZone Program (*e.g.*, it must ensure that at least 35 percent of all of its employees reside within a HUBZone). The HUBZone small business Contractor or subcontractor must consider whether it can meet the requirements of this clause and Executive Order 13495 while also ensuring it meets the HUBZone Program's requirements.

(3) Nothing in this clause shall be construed to permit a Contractor or subcontractor to fail to comply with any provision of any other Executive order or law. For example, the requirements of the HUBZone Program (see FAR subpart 19.13), Executive Order 11246 (Equal Employment Opportunity), and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 may conflict, in certain circumstances, with the requirements of Executive Order 13495. All applicable laws and Executive orders must be satisfied in tandem with, and if necessary prior to, the requirements of Executive Order 13495, 29 CFR part 9, and this clause.

- (d) (1) The Contractor shall, not less than 30 days before completion of the Contractor's performance of services on the contract, furnish the Contracting Officer with a certified list of the names of all service employees working under this contract and its subcontracts at the time the list is submitted. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Where changes to the workforce are made after the submission of the certified list described in this paragraph, the Contractor shall, in accordance with paragraph (e) of this clause, not less than 10 days before completion of the services on this contract, furnish the Contracting Officer with an updated certified list of the names of all service employees employed within the last month of contract performance. The updated list shall also contain anniversary dates of employment, and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor Contractors or their subcontractors.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(3) The Contracting Officer will direct the predecessor Contractor to provide written notice (Appendix B to 29 CFR chapter 9) to service employees of their possible right to an offer of employment with the successor contractor. Where a significant portion of the predecessor Contractor's workforce is not fluent in English, the notice shall be provided in English and the language(s) with which service employees are more familiar. The written notice shall be —

(i) Posted in a conspicuous place at the worksite; or

(ii) Delivered to the service employees individually. If such delivery is via email, the notification must result in an electronic delivery receipt or some other reliable confirmation that the intended recipient received the notice.

(e) (1) If required in accordance with 52.222–41(n), the predecessor Contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor Contractors or their subcontractors. If there are no changes to the workforce before the predecessor contract is completed, then the predecessor Contractor is not required to submit a revised list 10 days prior to completion of performance and the requirements of 52.222–41(n) are met. When there are changes to the workforce after submission of the 30-day list, the predecessor Contractor shall submit a revised certified list not less than 10 days prior to performance completion.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(f) The Contractor and subcontractor shall maintain the following records (regardless of format, e.g., paper or electronic) of its compliance with this clause for not less than a period of three years from the date the records were created.

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any service employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the service employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exemption claimed under this part.

(3) A copy of the service employee list provided to or received from the contracting agency.

(4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each service employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The Contractor shall also deliver a copy of the receipt to the service employee and file the original, as evidence of payment by the Contractor and receipt by the service employee, with the Administrator or an authorized representative within 10 days after payment is made.

(g) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause (52.233–1) of this contract. Such disputes shall be resolved in accordance with the procedures of

the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: The Contractor, the contracting agency, the U.S. Department of Labor, and the service employees under the contract or its predecessor contract. The Contracting Officer will refer any service employee who wishes to file a complaint, or ask questions concerning this contract clause, to the: Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Contact email: [displaced@dol.gov](mailto:displaced@dol.gov).

(h) The Contractor shall cooperate in any review or investigation by the Department of Labor into possible violations of the provisions of this clause and shall make such records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the Contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the Contractor or its subcontractors, as provided in Executive Order 13495, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

(j) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. However, if the Contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the Contractor may request that the United States, through the Secretary, enter into such litigation to protect the interests of the United States.

(k) The Contracting Officer will withhold, or cause to be withheld, from the prime Contractor under this or any other Government contract with the same prime Contractor, such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator, the Administrative Law Judge, or the Administrative Review Board, that there has been a failure to comply with the terms of this clause and that wages lost as a result of the violations are due to service employees or that other monetary relief is appropriate. If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the Contractor has failed to provide a list of the names of service employees working under the contract, the Contracting Officer may, in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(l) *Subcontracts.* In every subcontract over the simplified acquisition threshold entered into in order to perform services under this contract, the Contractor shall include a provision that ensures —

(1) That each subcontractor will honor the requirements of paragraphs (b) through (c) of this clause with respect to the service employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor Contractor and its subcontractors;

(2) That the subcontractor will provide the Contractor with the information about the service employees of the subcontractor needed by the Contractor to comply with paragraphs (d) and (e) of this clause; and

(3) The recordkeeping requirements of paragraph (f) of this clause.

#### **52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (FEB 2016)**

(a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in —

(1) Canada, and the anticipated value of the acquisition is \$25,000 or more;

(2) Israel, and the anticipated value of the acquisition is \$50,000 or more;

(3) Mexico, and the anticipated value of the acquisition is \$77,533 or more; or

(4) Armenia, Aruba, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or the United Kingdom and the anticipated value of the acquisition is \$191,000 or more.

(b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations.* The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) *Remedies.*

(1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

#### **52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)**

(a) *Definitions.* As used in this clause —

*Gender identity* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).



*Segregated facilities* means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

*Sexual orientation* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

### **52.222-26 EQUAL OPPORTUNITY (APR 2015)**

(a) *Definitions.* As used in this clause —

*Gender identity* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

*Sexual orientation* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

*United States* means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to —

(i) Employment;

- (ii) Upgrading;
  - (iii) Demotion;
  - (iv) Transfer;
  - (v) Recruitment or recruitment advertising;
  - (vi) Layoff or termination;
  - (vii) Rates of pay or other forms of compensation; and
  - (viii) Selection for training, including apprenticeship.
- (3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.
- (8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.
- (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.
- (10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

#### **52.222-29 NOTIFICATION OF VISA DENIAL (APR 2015)**

(a) *Definitions.* As used in this clause —

*Gender identity* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

*Sexual orientation* has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at [www.dol.gov/ofccp/LGBT/LGBT\\_FAQs.html](http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html).

(b) *Requirement to notify.*

(1) It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual's race, color, religion, sex, sexual orientation, gender identity, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10).

(2) The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW., Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, sexual orientation, gender identity, or national origin of the employee or potential employee.

#### **52.222-3 CONVICT LABOR (JUN 2003)**

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

- (ii) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;
- (iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

#### **52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)**

(a) *Definitions.* As used in this clause —

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60–300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

#### **52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)**

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60– 741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings

#### **52.222-37 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)**

(a) *Definitions.* As used in this clause, “active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” and “recently separated veteran,” have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on —

- (1) The total number of employees in the contractor's workforce, by job category and hiring location, who are protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);
- (2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and
- (3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by filing the VETS-4212 "Federal Contractor Veterans' Employment Report" (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at <http://www.dol.gov/vets/vets4212.htm>).

(d) The Contractor shall file VETS-4212 Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date —

- (1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or
- (2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

#### **52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)**

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

- (1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.
- (2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and

conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be —

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor- Management Standards Web site at <http://www.dol.gov/olms/regs/compliance/EO13496.htm>; or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

#### **52.222-41 SERVICE CONTRACT LABOR STANDARDS (MAY 2014)**

(a) *Definitions.* As used in this clause —

*Contractor* when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

*Service employee* means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards, and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 6702, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.* (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Service Contract Labor Standards statute and this contract.

(vi) Upon discovery of failure to comply with subparagraphs (b)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under the contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor Contracts.* If this contract succeeds a contract subject to the Service Contract Labor Standards statute under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe



benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of 41 U.S.C. 6703 and of this contract.

(h) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employee. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.* (1) The Contractor and each subcontractor performing work subject to the Service Contract Labor Standards statute shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Service Contract Labor Standards statute —

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the

Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor will permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay Periods.* The Contractor shall unconditionally pay to each employee subject to the Service Contract Labor Standards statute all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this statute may not be of any duration longer than semi-monthly.

(k) *Withholding of Payments and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Service Contract Labor Standards statute all or part of the wages or fringe benefits due under the Service Contract Labor Standards statute, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Service Contract Labor Standards statute.

(m) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority List.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Ruling and Interpretations.* Rulings and interpretations of the Service Contract Labor Standards statute are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's Certification.* (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under 41 U.S.C. 6706.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to 41 U.S.C. 6707 prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by 41 U.S.C. 6703(1), in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision —

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Labor Standards minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of 41 U.S.C. 6707(c).

(t) *Disputes Concerning Labor Standards.* The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: It Is Not a Wage Determination

<b>Employee Class</b>	<b>Monetary Wage – Fringe Benefits</b>
.	.
.	.
.	.

#### **52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS—PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014)**

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Labor Standards statute, (41 U.S.C. chapter 67), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair

Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increase or decrease wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment in its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

## **52.222-50 COMBATING TRAFFICKING IN PERSONS (MAR 2015)**

(a) *Definitions.* As used in this clause —

*Agent* means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

*Coercion* means —

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

*Commercially available off-the-shelf (COTS) item* means —

- (1) Any item of supply (including construction material) that is —
  - (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
  - (ii) Sold in substantial quantities in the commercial marketplace; and
  - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

*Commercial sex act* means any sex act on account of which anything of value is given to or received by any person.

*Debt bondage* means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

*Employee* means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

*Forced Labor* means knowingly providing or obtaining the labor or services of a person —

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

*Involuntary servitude* includes a condition of servitude induced by means of —

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

*Severe forms of trafficking in persons* means —

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

*Sex trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

*Subcontract* means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

*United States* means the 50 States, the District of Columbia, and outlying areas.

(b) *Policy*. The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not —

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract;
- (3) Use forced labor in the performance of the contract;
- (4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;
- (5)
  - (i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work;
  - (ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;
- (6) Charge employees recruitment fees;
- (7)
  - (i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment —
    - (A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or
    - (B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that —
  - (ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is —
    - (A) Legally permitted to remain in the country of employment and who chooses to do so; or
    - (B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Contractor requirements.* The Contractor shall —

(1) Notify its employees and agents of —

(i) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.*

(1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of —

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in —

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;



- (2) Requiring the Contractor to terminate a subcontract;
- (3) Suspension of contract payments until the Contractor has taken appropriate remedial action;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
- (5) Declining to exercise available options under the contract;
- (6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (7) Suspension or debarment.

(f) *Mitigating and aggravating factors.* When determining remedies, the Contracting Officer may consider the following:

(1) *Mitigating factors.* The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.

(2) *Aggravating factors.* The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) *Full cooperation.*

(1) The Contractor shall, at a minimum —

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not —

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Contractor from —

(A) Conducting an internal investigation;

or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan.*

(1) This paragraph (h) applies to any portion of the contract that —

(i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(ii) Has an estimated value that exceeds \$500,000.

(2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate —

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.

(3) *Minimum requirements.* The compliance plan must include, at a minimum, the following:

(i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at [help@befree.org](mailto:help@befree.org).

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable hostcountry legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting.*

(i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one

is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(5) *Certification.* Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that —

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either —

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that —

(A) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(B) Has an estimated value that exceeds \$500,000.

(2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

**52.222-51 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)**

(a) The items of equipment to be serviced under this contract are used regularly for other than Government purposes, and are sold or traded by the Contractor in substantial quantities to the general public in the course of normal business operations.

(b) The services shall be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(1) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(2) An "established market price" is a current price, established in the usual course of trade

between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract shall be the same as that used for these employees and for equivalent employees servicing the same equipment of commercial customers.

(d) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine the applicability of this exemption to any subcontract on or before subcontract award. In making a judgment that the exemption applies, the Contractor shall consider all factors and make an affirmative determination that all of the conditions in paragraphs (a) through (c) of this clause will be met.

(e) If the Department of Labor determines that any conditions for exemption in paragraphs (a) through (c) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures at 29 CFR 4.123(e)(1)(iv) and 29 CFR 4.5(c) will be followed

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for exempt services under this contract.

#### **52.222-53 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES--REQUIREMENTS (MAY 2014)**

(a) The services under this contract are offered and sold regularly to non-Governmental customers, and are provided by the Contractor to the general public in substantial quantities in the course of normal business operations.

(b) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract.

(d) The Contractor uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for these employees and for equivalent employees servicing commercial customers.

(e) (1) Except for services identified in FAR 22.1003-4(d)(1)(iv), the subcontractor for exempt services shall be selected for award based on other factors in addition to price or cost with the combination of other factors at least as important as price or cost; or

(2) A subcontract for exempt services shall be awarded on a sole source basis.

(f) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely subcontractors, that all or nearly all likely subcontractors will meet the conditions in paragraphs (a) through (d) of this clause. If the services are currently being performed under a subcontract, the Contractor shall consider the practices of the

existing subcontractor in making a determination regarding the conditions in paragraphs (a) through (d) of this clause. If the Contractor has reason to doubt the validity of the certification, the requirements of the Service Contract Labor Standards statute shall be included in the subcontract.

(g) If the Department of Labor determines that any conditions for exemption at paragraphs (a) through (e) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures in at 29 CFR 4.123(e)(2)(iii) and 29 CFR 4.5(c) will be followed.

(h) The Contractor shall include the substance of this clause, including this paragraph (h), in subcontracts for exempt services under this contract.

#### **52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)**

(a) *Definitions.* As used in this clause –

*Commercially available off-the-shelf (COTS) item* –

(1) Means any item of supply that is –

(i) A commercial item (as defined in paragraph (1) of the definition at 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

*Employee assigned to the contract* means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee –

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

*Subcontract* means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

*United States*, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award,

the Contractor shall –

(i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of –

(i) *All new employees.*

(A) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of –

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee –

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that –

(1) Is for –

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than \$3,500; and

(3) Includes work performed in the United States.

#### **52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015)**

(a) *Definitions.* As used in this clause —

“*United States*” means the 50 states and the District of Columbia.

“*Worker*” —

(1) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 13658, and —

- (i) Whose wages under such contract are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV);
- (ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541; and
- (iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(2) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

(3) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(b) *Executive Order minimum wage rate.*

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the **Federal Register** no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor Web site), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3) (i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Contractors shall consider any subcontractor requests for such price adjustment.

(iii) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Contractor warrants that the prices in this contract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this contract establishing a shorter



pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Contractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 10.23, Deductions.

(7) The Contractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Contractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Contractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Contractor shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

(c) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition –

(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to –

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to –

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a).

(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b).

(C) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(d) *Notice.* The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts), in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) *Payroll Records.*

(1) The Contractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

- (i) Name, address, and social security number;
- (ii) The worker's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid;
- (iv) The number of daily and weekly hours worked by each worker;
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The Contractor shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Contractor shall also make such records available upon request of the Contracting Officer.

(3) The Contractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Contractor's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(f) *Access.* The Contractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(g) *Withholding.* The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Contractor under this or any other Federal contract with the same Contractor, sufficient to pay workers the full amount of wages required by this clause.

(h) *Disputes.* Department of Labor has set forth in 29 CFR 10.51, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 10. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(i) *Antiretaliation.* The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any

proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(j) *Subcontractor compliance.* The Contractor is responsible for subcontractor compliance with the requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

(k) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (k) in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

#### **52.222-99 ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JUL 2014) (DEVIATION I – JUL 2014)**

This clause implements Executive Order 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors, dated June 12, 2014.

(a) Each service employee, laborer, or mechanic employed in the United States (the 50 states and the District of Columbia) in the performance of this contract by the prime Contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the Contractor and service employee, laborer, or mechanic, shall be paid not less than the applicable minimum wage under Executive Order 13658. The minimum wage required to be paid to each service employee, laborer, or mechanic performing work on this contract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour.

(b) The Contractor shall adjust the minimum wage paid under this contract each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all service employees, laborers, or mechanics subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on [www.wdol.gov](http://www.wdol.gov) (or any successor website). The applicable published minimum wage is incorporated by reference into this contract.

(c) The Contracting Officer will adjust the contract price or contract unit price under this clause only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Contracting Officer shall consider documentation as to the specific costs and workers impacted in determining the amount of the adjustment.

(d) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (c) of this clause, and will not provide price adjustments under this clause that result in duplicate price adjustments with the respective clause of this contract implementing the Service Contract Labor Standards statute (formerly known as the Service Contract Act) or the Wage Rate Requirements (Construction) statute (formerly known as the Davis Bacon Act).

(e) The Contractor shall include the substance of this clause, including this paragraph (e) in all subcontracts.

#### **52.223-10 WASTE REDUCTION PROGRAM (MAY 2011)**

(a) *Definitions.* As used in this clause —

*Recycling* means the series of activities, including collection, separation, and processing, by which

products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

*Waste prevention* means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

*Waste reduction* means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR part 247).

### **52.223-13 ACQUISITION OF EPEAT®-REGISTERED IMAGING EQUIPMENT (JUN 2014)**

(a) *Definitions.* As used in this clause –

*Imaging equipment* means the following products:

(1) *Copier* — A commercially available imaging product with a sole function of the production of hard copy duplicates from graphic hard-copy originals. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as copiers or upgradeable digital copiers (UDCs).

(2) *Digital duplicator* — A commercially available imaging product that is sold in the market as a fully automated duplicator system through the method of stencil duplicating with digital reproduction functionality. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as digital duplicators.

(3) *Facsimile machine (fax machine)* — A commercially available imaging product whose primary functions are scanning hard-copy originals for electronic transmission to remote units and receiving similar electronic transmissions to produce hard-copy output. Electronic transmission is primarily over a public telephone system but also may be via computer network or the Internet. The product also may be capable of producing hard copy duplicates. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as fax machines.

(4) *Mailing machine* — A commercially available imaging product that serves to print postage onto mail pieces. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as mailing machines.

(5) *Multifunction device (MFD)* — A commercially available imaging product, which is a physically integrated device or a combination of functionally integrated components, that performs two or more of the core functions of copying, printing, scanning, or faxing. The copy functionality as addressed in this definition is considered to be distinct from singlesheet convenience copying offered by fax machines. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as MFDs or multifunction products.

(6) *Printer* — A commercially available imaging product that serves as a hardcopy output device and is capable of receiving information from single-user or networked computers, or other input

devices (e.g., digital cameras). The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as printers, including printers that can be upgraded into MFDs in the field.

(7) *Scanner* — A commercially available imaging product that functions as an electro-optical device for converting information into electronic images that can be stored, edited, converted, or transmitted, primarily in a personal computing environment. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as scanners.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only imaging equipment that, at the time of submission of proposals and at the time of award, was EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see [www.epa.gov/PEAT](http://www.epa.gov/PEAT).

#### **52.223-14 ACQUISITION OF EPEAT®-REGISTERED TELEVISIONS (JUN 2014)**

(a) *Definitions.* As used in this clause –

*Television or TV* means a commercially available electronic product designed primarily for the reception and display of audiovisual signals received from terrestrial, cable, satellite, Internet Protocol TV (IPTV), or other digital or analog sources. A TV consists of a tuner/receiver and a display encased in a single enclosure. The product usually relies upon a cathode-ray tube (CRT), liquid crystal display (LCD), plasma display, or other display technology. Televisions with computer capability (e.g., computer input port) may be considered to be a TV as long as they are marketed and sold to consumers primarily as televisions.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only televisions that, at the time of submission of proposals and at the time of award, were EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see [www.epa.gov/PEAT](http://www.epa.gov/PEAT).

#### **52.223-15 Energy Efficiency in Energy-Consuming Products (DEC 2007)**

(a) *Definition.* As used in this clause--

Energy-efficient product--

(1) Means a product that--

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are--

- (1) Delivered;
  - (2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;
  - (3) Furnished by the Contractor for use by the Government; or
  - (4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.
- (c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless--
- (1) The energy-consuming product is not listed in the ENERGY STAR<sup>®</sup> Program or FEMP; or
  - (2) Otherwise approved in writing by the Contracting Officer.
- (d) Information about these products is available for--
- (1) ENERGY STAR<sup>®</sup> at <http://www.energystar.gov/products>; and
  - (2) FEMP at [http://www1.eere.energy.gov/femp/procurement/eep\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/eep_requirements.html)

#### **52.223-16 ACQUISITION OF EPEAT<sup>®</sup>-REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015)**

(a) *Definitions.* As used in this clause –

*Computer* means a device that performs logical operations and processes data. Computers are composed of, at a minimum:

- (1) A central processing unit (CPU) to perform operations;
- (2) User input devices such as a keyboard, mouse, digitizer, or game controller; and
- (3) A computer display screen to output information. Computers include both stationary and portable units, including desktop computers, integrated desktop computers, notebook computers, thin clients, and workstations. Although computers must be capable of using input devices and computer displays, as noted in (2) and (3) above, computer systems do not need to include these devices on shipment to meet this definition. This definition does not include server computers, gaming consoles, mobile telephones, portable hand-held calculators, portable digital assistants (PDAs), MP3 players, or any other mobile computing device with displays less than 4 inches, measured diagonally.

*Computer display* means a display screen and its associated electronics encased in a single housing or within the computer housing (*e.g.*, notebook or integrated desktop computer) that is capable of displaying output information from a computer via one or more inputs such as a VGA, DVI, USB, DisplayPort, and/or IEEE 1394–2008TM, Standard for High Performance Serial Bus. Examples of computer display technologies are the cathode-ray tube (CRT) and liquid crystal display (LCD).

*Desktop computer* means a computer where the main unit is intended to be located in a permanent location, often on a desk or on the floor. Desktops are not designed for portability and utilize an external computer display, keyboard, and mouse. Desktops are designed for a broad range of home and office applications.

*Integrated desktop computer* means a desktop system in which the computer and computer display function as a single unit that receives its AC power through a single cable. Integrated desktop computers come in one of two possible forms:

(1) A system where the computer display and computer are physically combined into a single unit; or

(2) A system packaged as a single system where the computer display is separate but is connected to the main chassis by a DC power cord and both the computer and computer display are powered from a single power supply. As a subset of desktop computers, integrated desktop computers are typically designed to provide similar functionality as desktop systems.

*Notebook computer* means a computer designed specifically for portability and to be operated for extended periods of time either with or without a direct connection to an AC power source. Notebooks must utilize an integrated computer display and be capable of operation off of an integrated battery or other portable power source. In addition, most notebooks use an external power supply and have an integrated keyboard and pointing device. Notebook computers are typically designed to provide similar functionality to desktops, including operation of software similar in functionality to that used in desktops. Docking stations are considered accessories for notebook computers, not notebook computers. Tablet PCs, which may use touch-sensitive screens along with, or instead of, other input devices, are considered notebook computers.

*Personal computer product* means a computer, computer display, desktop computer, integrated desktop computer, or notebook computer.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only personal computer products that, at the time of submission of proposals and at the time of award, were EPEAT<sup>®</sup> bronze-registered or higher.

(c) For information about EPEAT<sup>®</sup>, see [www.epa.gov/PEAT](http://www.epa.gov/PEAT).

#### **52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)**

(a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired#

(1) Competitively within a timeframe providing for compliance with the contract performance schedule;

(2) Meeting contract performance requirements; or

(3) At a reasonable price.

(b) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designated items is available at <http://www.epa.gov/cpg/products.htm>.

#### **52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)**

(a) *Definitions.* As used in this clause –

“*Driving*” –

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has

pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

“Text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving, dated October 1, 2009.

(c) The Contractor should –

(1) Adopt and enforce policies that ban text messaging while driving –

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as –

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

#### **52.223-19 COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)**

The Contractor’s work under this contract shall conform with all operational controls identified in the applicable agency or facility Environmental Management Systems and provide monitoring and measurement information necessary for the Government to address environmental performance relative to the goals of the Environmental Management Systems.

#### **52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)**

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless –

(1) The product cannot be acquired –

(i) Competitively within a time frame providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.



(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

(i) Spacecraft system and launch support equipment.

(ii) Military equipment, *i.e.*, a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at <http://www.biopreferred.gov>.

(c) In the performance of this contract, the Contractor shall –

(1) Report to the environmental point of contact identified in paragraph (d) of this clause, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30;

(2) Submit this report no later than –

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance.

#### **52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)**

(a) *Definitions.* As used in this clause—

*Toxic chemical* means a chemical or chemical category listed in 40 CFR 372.65.

(b) Federal facilities are required to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050), and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of Section 302 of EPCRA.

(2) The emergency notice requirements of Section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by Section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA.

(5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA.

(6) The toxic chemical and hazardous substance release and use reduction goals of section 2(e) of Executive Order 13423 and of Executive Order 13514.

#### **52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)**

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974

(5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

#### **52.224-2 PRIVACY ACT (APR 1984)**

(a) The Contractor agrees to—

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

(i) The systems of records; and

(ii) The design, development, or operation work that the Contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c) (1) "*Operation of a system of records*," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "*Record*," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "*System of records on individuals*," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

#### **52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of

entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

#### **52.225-5 TRADE AGREEMENTS (FEB 2016)**

(a) *Definitions.* As used in this clause —

“Caribbean Basin country end product”—

(1) Means an article that —

(i) (A) Is wholly the growth, product, or manufacture of a Caribbean Basin country;  
or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.usitc.gov/tata/hts/>. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade

Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”), or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

“Designated country end product” means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Free Trade Agreement country end product” means an article that —

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Least developed country end product” means an article that —

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of

commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-made end product” means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“WTO GPA country end product” means an article that —

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”

#### **52.227-14 RIGHTS IN DATA--GENERAL (MAY 2014)**

(a) *Definitions.* As used in this clause –

“Computer database” or “database” means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

“Computer software” –

(1) Means

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

“Computer software documentation” means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

“Data” means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

“Form, fit, and function data” means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

“Limited rights” means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

“Limited rights data” means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

“Restricted computer software” means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

“Restricted rights” as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

“Technical data” means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 116).

“Unlimited rights” means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in--

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to--

- (i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;
- (ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;
- (iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and
- (iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright--

(1) Data first produced in the performance of this contract.

- (i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.
- (ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).
- (iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor--

- (i) Identifies the data; and
- (ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the

performance of this contract, except--

- (1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);
- (2) As expressly set forth in this contract; or
- (3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g) (3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 4703, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.



(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor--

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may--

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall--

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) *Subcontracting*. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) *Relationship to patents or other rights*. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

#### **52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)**

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in

the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

#### **52.229-1 STATE AND LOCAL TAXES (APR 1984) (DEVIATION I –MAY 2003)**

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract price, and the ordering activity agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

#### **52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013) (DEVIATION – FEB 2007)**

(a) As used in this clause —

“After-imposed Federal tax” means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

“After-relieved Federal tax” means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“All applicable Federal, State, and local taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

“Contract date” means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) (1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be —

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The ordering activity shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

#### **52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT (JUL 2013)**

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the System for Award Management (SAM) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the SAM database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the SAM database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT

information is entered into the SAM database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the SAM database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the SAM database.

**52.232-34 Payment by Electronic Funds Transfer—Other than  
SYSTEM FOR AWARD MANAGEMENT (JUL 2013) (DEVIATION –  
FEB 2007)**

(a) Method of payment.

(1) All payments by the ordering activity under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

(2) In the event the ordering activity is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the ordering activity to extend payment due dates until such time as the ordering activity makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required to provide the ordering activity with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: “designated office”) by .. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor’s EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The ordering activity may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) Suspension of payment.

(1) The ordering activity is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the ordering activity shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor’s request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the ordering activity used the Contractor's EFT information incorrectly, the ordering activity remains responsible for—

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of ordering activity release of the EFT payment transaction instruction to the Federal Reserve System, and—

- (i) If the funds are no longer under the control of the payment office, the ordering activity is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the ordering activity shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the ordering activity, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The ordering activity is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The ordering activity may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the ordering activity does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the ordering activity. If the ordering activity makes payment by check in accordance with paragraph (a) of this clause, the ordering activity shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause).

The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).

- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, saving, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.
- (7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

**52.232-36 PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION  
– MAY 2003)**

(a) *General.*

(1) Except as provided in paragraph (a)(2) of this clause, the Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the ordering activity, in accordance with the terms of this clause. The third party and, if applicable, the particular credit card to be used are identified elsewhere in this contract.

(2) The credit card is not authorized as a method of payment during any period of the System for Award Management (SAM) indicates that the Contractor has delinquent debt that is subject to collection under the Treasury Offset Program (TOP). Information on TOP is available at <http://fms.treas.gov/debt/index.html>. If the SAM subsequently indicates that the Contractor no longer has delinquent debt, the Contractor may request the Contracting Officer to authorize payment by credit card.

(b) *Contractor payment request.*

(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall make payment requests through a charge to the ordering activity account with the third party, at the time and for the amount due in accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor.

(2) When the Contracting Officer has notified the Contractor that the credit card is no longer an authorized method of payment, the Contractor shall make such payment requests in accordance with instructions provided by the Contracting Officer during the period when the purchase card is not authorized.

(c) *Payment.* The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the ordering activity and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation.* Documentation of each charge against the ordering activity's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of claims.* Notwithstanding any other provision of this contract, if any payment is made

under this clause, then no payment under this contract shall be assigned under the provisions of the assignment of claims terms of this contract or the Assignment of Claims Act of 1940 (31 U.S.C. 3727, 41 U.S.C. 6305).

(f) *Other payment terms.* The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

#### **52.232-37 MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)**

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

- (a) Elsewhere in this contract or agreement; or
- (b) In individual orders placed under this contract or agreement.

#### **52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)**

- (a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
- (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

#### **52.233-1 DISPUTES (MAY 2014)**

- (a) This contract is subject to 41 U.S.C chapter 71, Contract Disputes.
- (b) Except as provided in 41 U.S.C chapter 71, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under 41 U.S.C chapter 71 until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under 41 U.S.C chapter 71. The submission may be converted to a claim under 41 U.S.C chapter 71, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.



- (2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am authorized to certify the claim on behalf of the Contractor."
- (3) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in 41 U.S.C chapter 71.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

### **52.233-3 PROTEST AFTER AWARD (AUG 1996)**

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either—

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- (b) If a stop-work order issued under this clause is canceled either before or after a final decision in the

protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the request at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.
- (e) The Government's rights to terminate this contract at anytime are not affected by action taken under this clause.
- (f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2), or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

#### **52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)**

United States law will apply to resolve any claim of breach of this contract.

#### **52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)**

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

#### **52.237-3 CONTINUITY OF SERVICES (JAN 1991) (DEVIATION – MAY 2003)**

- (a) The Contractor recognizes that the services under this contract are vital to the ordering activity and must be continued without interruption and that, upon contract expiration, a successor, either the ordering activity or another contractor, may continue them. The Contractor agrees to-
- (1) Furnish phase-in training; and
  - (2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

#### **52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)**

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

#### **52.242-13 BANKRUPTCY (JUL 1995)**

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

#### **52.242-15 STOP-WORK ORDER (AUG 1989)**

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either —

- (1) Cancel the stop-work order; or
  - (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if —
- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
  - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

**52.246-4 INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996)  
(DEVIATION - MAY 2003)**

- (a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the ordering activity covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the ordering activity during contract performance and for as long afterwards as the contract requires.
- (c) The ordering activity has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The ordering activity shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the ordering activity performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conform with contract requirements, the ordering activity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the ordering activity may—
  - (1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
  - (2) Reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to

ensure future performance in conformity with contract requirements, the ordering activity may--

- (1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the ordering activity that is directly related to the performance of such service; or
- (2) Terminate the contract for default.

**52.247-34 F.O.B. DESTINATION (NOV 1991) (DEVIATION – MAY 2003)**

(a) The term "f.o.b. destination," as used in this clause, means—

- (1) Free of expense to the ordering activity, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and
- (2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The ordering activity shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the ordering activity acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the Contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall—

- (1) (i) Pack and mark the shipment to comply with contract specifications; or  
(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
- (2) Prepare and distribute commercial bills of lading;
- (3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
- (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
- (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
- (6) Pay and bear all charges to the specified point of delivery.

**52.247-38 F.o.b. Inland Carrier, Point of Exportation (FEB 2006) (DEVIATION – FEB 2007)**

(a) The term "f.o.b. inland carrier, point of exportation," as used in this clause, means free of expense to the ordering activity, on board the conveyance of the inland carrier, delivered to the specified point of

exportation.

(b) The Contractor shall—

- (1) (i) Pack and mark the shipment to comply with contract specifications; or  
  
(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;
- (2) Prepare and distribute commercial bills of lading or other transportation receipt;
- (3) (i) Deliver the shipment in good order and condition in or on the conveyance of the carrier on the date or within the period specified; and  
  
(ii) Pay and bear all applicable charges, including transportation costs, to the point of delivery specified in the contract;
- (4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point of delivery in the contract; and
- (5) At the ordering activity's request and expense, assist in obtaining the documents required for—
  - (i) Exportation; or
  - (ii) Importation at destination.

**52.247-39 F.O.B. INLAND POINT, COUNTRY OF IMPORTATION  
(APR 1984)**

(a) The term "f.o.b. inland point, country of importation," as used in this clause, means free of expense to the Government, on board the indicated type of conveyance of the carrier, delivered to the specified inland point where the consignee's facility is located.

(b) The Contractor shall—

- (1) (i) Pack and mark the shipment to comply with contract specifications; or  
  
(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods;
- (2) (i) Deliver, in or on the inland carrier's conveyance, the shipment in good order and condition to the specified inland point where the consignee's facility is located; and  
  
(ii) Pay and bear all applicable charges incurred up to the point of delivery, including transportation costs; export, import, or other fees or taxes; costs of landing; wharfage costs; customs duties and costs of certificates of origin; consular invoices; and other documents that may be required for importation; and
- (3) Be responsible for any loss of and/or damage to the goods until their arrival on or in the carrier's conveyance at the specified inland point.

**52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)**

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the

performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. The provisions of the clause at FAR 52.245-1, Government Property, apply to all property acquired under such authorization.

### 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

For contract clauses which are contained in the Federal Acquisition Regulation (FAR) the address is <http://acquisition.gov/far/>.

Number	Title	Clause/Provision
52.202-1	DEFINITIONS (NOV 2013)	Clause
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)	Clause
52.203-3	GRATUITIES (APR 1984)	Clause
52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)	Clause
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)	Clause
52.204-7	SYSTEM FOR AWARD MANAGEMENT (JUL 2013)	Clause
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)	Clause
52.207-5	OPTION TO PURCHASE EQUIPMENT (FEB 1995)	Clause
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2015)	Clause
52.211-16	VARIATION IN QUANTITY (APR 1984)	Clause
52.212-4	CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 2015) (DEVIATION I -- FEB 2007)	Clause
52.212-4	CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 2015) (ALTERNATE I -- MAY 2014) (DEVIATION I -- FEB 2007)	Clause
52.215-21	REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA--MODIFICATIONS	Clause

	(OCT 2010) (ALTERNATE IV - OCT 2010)	
52.216-19	ORDER LIMITATIONS (OCT 1995) (DEVIATED II - FEB 2007)	Clause
52.216-22	INDEFINITE QUANTITY (OCT 1995)	Clause
52.217-8	OPTION TO EXTEND SERVICES (NOV 1999)	Clause
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)	Clause
52.222-29	NOTIFICATION OF VISA DENIAL (APR 2015)	Clause
52.223-10	WASTE REDUCTION PROGRAM (MAY 2011)	Clause
52.223-17	AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)	Clause
52.223-19	COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)	Clause
52.223-2	AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)	Clause
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)	Clause
52.224-1	PRIVACY ACT NOTIFICATION (APR 1984)	Clause
52.224-2	PRIVACY ACT (APR 1984)	Clause
52.227-14	RIGHTS IN DATA--GENERAL (MAY 2014)	Clause
52.228-5	INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)	Clause
52.229-1	STATE AND LOCAL TAXES (APR 1984) (DEVIATION I - MAY 2003)	Clause
52.229-3	FEDERAL, STATE, AND LOCAL TAXES (FEB 2013) (DEVIATION I - FEB 2007)	Clause
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN SYSTEM FOR AWARD MANAGEMENT (JUL 2013) (DEVIATION I - FEB 2007)	Clause
52.232-36	PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION I - MAY 2003)	Clause
52.232-37	MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)	Clause



52.233-1	DISPUTES (MAY 2014)	Clause
52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)	Clause
52.237-3	CONTINUITY OF SERVICES (JAN 1991) (DEVIATION I - MAY 2003)	Clause
52.242-13	BANKRUPTCY (JUL 1995)	Clause
52.242-15	STOP-WORK ORDER (AUG 1989)	Clause
52.246-4	INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996) (DEVIATION I - MAY 2003)	Clause
52.247-34	F.O.B. DESTINATION (NOV 1991) (DEVIATION I - MAY 2003)	Clause
52.247-38	F.O.B. INLAND CARRIER, POINT OF EXPORTATION (FEB 2006) (DEVIATION I - FEB 2007)	Clause
52.247-39	F.O.B. INLAND POINT, COUNTRY OF IMPORTATION (APR 1984)	Clause
52.251-1	GOVERNMENT SUPPLY SOURCES (APR 2012)	Clause
552.211-73	MARKING (FEB 1996)	Clause
552.211-75	PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.211-77	PACKING LIST (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.212-70	PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE) (AUG 1997)	Clause
552.229-71	FEDERAL EXCISE TAX--DC GOVERNMENT (SEP 1999)	Clause
552.232-74	INVOICE PAYMENTS (SEP 1999)	Clause
552.232-79	PAYMENT BY CREDIT CARD (MAY 2003)	Clause
552.232-81	PAYMENTS BY NON-FEDERAL ORDERING ACTIVITIES (MAY 2003)	Clause
552.232-83	CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003)	Clause
552.238-73	CANCELLATION (SEP 1999)	Clause
552.238-77	DEFINITION (FEDERAL SUPPLY SCHEDULES) (JUL 2016)	Clause
552.238-79	USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY CERTAIN ENTITIES - COOPERATIVE PURCHASING (JUL 2016)	Clause
552.252-6	AUTHORIZED DEVIATIONS IN CLAUSES (SEP 1999) (DEVIATION FAR 52.252-6)	Clause
C-FSS-412	CHARACTERISTICS OF ELECTRIC	Clause

	CURRENT (MAY 2000)	
D-FSS-471	MARKING AND DOCUMENTATION REQUIREMENTS PER SHIPMENT (APR 1984)	Clause
D-FSS-477	TRANSSHIPMENTS (APR 1984)	Clause
I-FSS-314	FOREIGN TAXES AND DUTIES (DEC 1990)	Clause
I-FSS-594	PARTS AND SERVICE (OCT 1988)	Clause

#### **552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)**

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

#### **552.211-15 Defense Priorities and Allocations System Requirements (SEP 2004)**

##### *(a) Definitions.*

*Approved program* means a program determined to be necessary or appropriate for priorities and allocation support to promote the national defense by the Secretary of Defense, the Secretary of Energy, or the Department of Homeland Security Under Secretary for Emergency Preparedness and Response under the authority of the Defense Production Act, the Stafford Act, and Executive Order 12919, or the Selective Service Act and related statutes, and Executive Order 12742. See Schedule 1 of 15 CFR part 700 for a list of Delegate Agencies, approved programs, and program identification symbols at <http://www.bis.doc.gov/DefenseIndustrialBasePrograms/OSIES/DPAS/Default.htm>.

*Defense Priorities and Allocations System (DPAS)* means the regulation published at 15 CFR part 700 that requires preferential treatment for certain contracts and orders placed by a Delegate Agency in support of an approved program.

*Delegate Agency* means an agency of the U.S. Government authorized by delegation from the Department of Commerce (DOC) to place priority ratings on contracts or orders needed to support approved programs.

*Rated order* means, for the purpose of this contract, a delivery or task order issued in accordance with the provisions of the DPAS regulation (15 CFR part 700).

##### *(b) Rated Order Requirement.*

From time to time, the Contractor may receive a rated order under this contract from a Delegate Agency. The Contractor must give preferential treatment to rated orders as required by the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700). The existence of previously accepted unrated or lower rated orders is not sufficient reason to reject a rated order. Rated orders take preference over all unrated orders as necessary to meet required delivery dates. There are two levels of ratings designated by the symbol of either "DO" or "DX." All "DO" rated orders have equal priority with each other and take preference over unrated orders. All "DX" rated orders have equal priority with each other and take preference over "DO" rated orders and unrated orders. The rating designation is followed by a program identification symbol. Program identification symbols indicate which approved program is supported by the rated order (see Schedule 1 of 15 CFR part 700 for a list of Delegate Agencies, approved programs, and program identification symbols).

(c) *Additional information.*

Additional information may be obtained at the DOC DPAS website <http://www.bis.doc.gov/DefenseIndustrialBasePrograms/OSIES/DPAS/Default.htm> or by contacting the designated Administrative Contracting Officer.

#### **552.211-73 MARKING (FEB 1996)**

(a) *General requirements.* Interior packages, if any, and exterior shipping containers shall be marked as specified elsewhere in the contract. Additional marking requirements may be specified on delivery orders issued under the contract. If not otherwise specified, interior packages and exterior shipping containers shall be marked in accordance with the following standards.

(1) *Deliveries to civilian activities.* Supplies shall be marked in accordance with Federal Standard 123, edition in effect on the date of issuance of the solicitation.

(2) *Deliveries to military activities.* Supplies shall be marked in accordance with Military Standard 129, edition in effect on the date of issuance of the solicitation.

(b) *Improperly marked material.* When Government inspection and acceptance are at destination, and delivered supplies are not marked in accordance with contract requirements, the Government has the right, without prior notice to the Contractor to perform the required marking, by contract or otherwise, and charge the Contractor, therefor at the rate specified elsewhere in this contract. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

#### **552.211-75 PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)**

Unless otherwise specified, all items shall be preserved, packaged, and packed in accordance with normal commercial practices, as defined in the applicable commodity specification. Packaging and packing shall comply with the requirements of the Uniform Freight Classification and the National Motor Freight Classification (issue in effect at time of shipment) and each shipping container of each item in a shipment shall be of uniform size and content, except for residual quantities. Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering activity and the Contractor.

#### **552.211-77 PACKING LIST (FEB 1996) (ALTERNATE I - MAY 2003)**

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate: (1) Name and address of consignor; (2) Name and complete address of consignee; (3) Ordering activity order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Ordering activity commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number; and (2) the term "Credit Card."

#### **552.211-78 COMMERCIAL DELIVERY SCHEDULE (MULTIPLE AWARD SCHEDULE) (FEB 1996)**

(a) *Time of Delivery.* The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO) in the case of F.O.B. Destination prices; or to place of shipment in transit in the case of F.O.B. Origin prices, as set forth below. Offerors shall insert in the "Time of Delivery

(days ARO)” column in the schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the Contractor's normal commercial practice. The Government requires the Contractor's normal commercial delivery time, as long as it is less than the “stated” delivery time(s) shown below. If the Offeror does not insert a delivery time in the schedule of items, the Offeror will be deemed to offer delivery in accordance with the Government's stated delivery time, as stated below:

ITEMS OR GROUP OF ITEMS (Special item No. or nomenclature)	GOVERNMENT STATED DELIVERY TIME (Days ARO)	CONTRACTOR'S NORMAL COMMERCIAL DELIVERY TIME
.	.	_____
.	.	_____
.	.	_____

(b) Expedited Delivery Times. For those items that can be delivered quicker than the delivery times in paragraph (a), above, the Offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested.

ITEM OR GROUP OF ITEMS (Special Item No. of nomenclature)	Expedited Delivery Time (Hours/Days ARO)
_____	_____
_____	_____
_____	_____

(c) Overnight and 2-Day Delivery Times. Ordering activities may require overnight or 2—day delivery. The Offeror is requested to annotate its price list or by separate attachment identify the items that can be delivered overnight or within 2 days. Contractors offering such delivery services will be required to state in the cover sheet to its FSS price list details concerning this service.

**552.212-4 CONTRACT TERMS AND CONDITIONS –  
COMMERCIAL ITEMS (MAY 2015) (ALTERNATE II – JUL 2009)  
(FAR DEVIATION – JUL 2015) (TAILORED)**

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Ordering activity reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Ordering activity may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Ordering activity may seek an equitable price reduction or adequate consideration for acceptance of

nonconforming supplies or services. The Ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice. #*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include –

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer – System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer – Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(h) *Patent indemnity.* The Contractor shall indemnify the Ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if -

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on-

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Ordering activity's convenience.* The Ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Ordering activity using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Ordering activity may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the Ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Ordering activity for any and all rights and remedies provided by law. If it is determined that the Ordering activity improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Ordering activity upon acceptance, regardless of when or where the Ordering activity takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, Unauthorized Obligations, and Commercial Supplier Agreements – Unenforceable Clauses paragraphs of this clause,



- (3) The clause at 52.212-5,
- (4) Solicitation provisions if this is a solicitation.
- (5) Other paragraphs of this clause.
- (6) Addenda to this solicitation or contract, including any license agreements for computer software.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments.
- (9) The specification.

(t) *System for Award Management (SAM)*.

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

- (2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations*

- (1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under

this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(w) Commercial supplier agreements – unenforceable clauses

When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between the commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders under FAR Part 12).

(ii) *End user.* This agreement shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance.* If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in

subparagraph (d) (Disputes).

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, (A) binding arbitration shall not be used unless specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) Additional terms.

(A) This commercial supplier agreement may unilaterally incorporate additional terms by reference. Terms may be included by reference using electronic means (e.g., via web links, click and accept, etc). Such terms shall be enforceable only to the extent that:

- (1) When included by reference using electronic means, the terms are readily available at referenced locations; and
- (2) Terms do not materially change government obligations; and
- (3) Terms do not increase government prices; and
- (4) Terms do not decrease overall level of service; and
- (5) Terms do not limit any other Government rights addressed elsewhere in this contract.

(B) The order of precedence clause of this contract notwithstanding, any software license terms unilaterally revised subsequent to award that is inconsistent with any material term or provision of this contract is not enforceable against the government.

(vii) *No automatic renewals.* If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express Government approval.

(viii) *Indemnification.* Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits.* Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows: (A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order. (B) This charge, if disputed by the ordering activity, will be resolved through the Disputes clause at 522.212-4(d); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process. (C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the Government.

(x) *Taxes or surcharges.* Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(xi) *Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under subparagraph (b) of this clause at 552.212-4.

(xii) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the Federal Supply Schedule price list (if applicable) shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

### **552.212-70 PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE) (AUG 1997)**

(a) Definitions. *Concession*, as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to freight allowance, extended warranty, extended price guarantees, free installation and bonus goods.

*Discount*, as used in this solicitation, means a reduction to catalog prices (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions other than concessions) which reduce the amount of money a customer ultimately pays for goods or services ordered or received. Any net price lower than the list price is considered a "discount" by the percentage difference from the list price to the net price.

(b) For each Special Item Number (SIN) included in an offer, the Offeror shall provide the information outlined in paragraph (c). Offerors may provide a single response covering more than one SIN, if the information disclosed is the same for all products under each SIN. If discounts and concessions vary by model or product line, offerors shall ensure that information is clearly annotated as to item or items referenced.

(c) Provide information described below for each SIN:

(1) Two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price list(s) from which discounts are offered. If special catalogs or price lists are printed for the purpose of this offer, such descriptive catalogs or price lists shall include a statement indicating the special catalog or price list represent a verbatim extract from the Offeror's commercial catalog and/or price list and identify the descriptive catalog and/or price list from which the information has been extracted.

(2) Next to each offered item in the commercial catalog and/or price list, the Offeror shall write the special item number (SIN) under which the item is being offered. Unless a special catalog or price list is submitted, all other items shall be marked "excluded," lined out, and initialed by the offeror.

(3) The discount(s) offered under this solicitation. The description of discounts offered shall include all discounts, such as prompt payment discounts, quantity/dollar volume discounts (indicate whether models/products can be combined within the SIN or whether SINs can be combined to earn discounts), blanket purchase agreement discounts, or purchase option credits. If

the terms of sale appearing in the commercial catalogs or price list on which an offer is based are in conflict with the terms of this solicitation, the latter shall govern.

(4) A description of concessions offered under this solicitation which are not granted to other customers. Such concessions may include, but are not limited to, an extended warranty, a return/exchange goods policy, or enhanced or additional services.

(5) If the Offeror is a dealer/reseller or the Offeror will use dealers to perform any aspect of contract awarded under this solicitation, describe the functions, if any, that the dealer/reseller will perform.

**552.212-71 CONTRACT TERMS AND CONDITIONS APPLICABLE  
TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2016)**

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The clauses in paragraph (b) of this section are incorporated by reference:

*[The Contracting Officer should check the clauses that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity.]*

(b) Clauses.

Yes 552.203-71 Restriction on Advertising

No 552.211-73 Marking

No 552.215-70 Examination of Records by GSA

Yes 552.215-71 Examination of Records by GSA (Multiple Award Schedule)

Yes 552.215-72 Price Adjustment —Failure to Provide Accurate Information

Yes 552.219-70 Allocation of Orders—Partially Set-Aside Items

Yes 552.228-70 Workers' Compensation Laws

Yes 552.229-70 Federal, State, and Local Taxes

Yes 552.232-8 Discounts for Prompt Payment

Yes 552.232-23 Assignment of Claims

Yes 552.232-71 Adjusting Payments

Yes 552.232-72 Final Payment

Yes 552.232-73 Availability of Funds

Yes 552.232-78 Payment Information

Yes 552.237-71 Qualifications of Employees

Yes 552.238-71 Submission and Distribution of Authorized FSS Schedule Price List

Yes 552.238-74 Industrial Funding Fee and Sales Reporting

Yes 552.238-75 Price Reductions

Yes 552.238-81 Modifications (Multiple Award Schedule)

Yes 552.242-70 Status Report of Orders and Shipments

Yes 552.246-73 Warranty—Multiple Award Schedule

No 552.246-76 Warranty of Pesticides

**552.212-72 CONTRACT TERMS AND CONDITIONS REQUIRED  
TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS  
APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS  
(JUN 2015)**

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

(a) Provisions.

\* \_\_\_\_\_ \* 552.223-72 Hazardous Material Information

(b) Clauses.

\* \_\_\_\_\_ \* 552.223-70 Hazardous Substances.

\* \_\_\_\_\_ \* 552.223-71 Nonconforming Hazardous Material.

\* \_\_\_\_\_ \* 552.223-73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

\* \_\_\_\_\_ \* 552.238-70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

\* \_\_\_\_\_ \* 552.238-72 Identification of Products That Have Environmental Attributes.

**552.215-71 EXAMINATION OF RECORDS BY GSA (MULTIPLE  
AWARD SCHEDULE) (JUL 2003)**

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall have access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee and Sales Reporting clause of this contract. This authority shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of applying this clause.

**552.215-72 PRICE ADJUSTMENT—FAILURE TO PROVIDE  
ACCURATE INFORMATION (AUG 1997)**

(a) The Government, at its election, may reduce the price of this contract or contract modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

- (1) provide information required by this solicitation/contract or otherwise requested by the Government; or
- (2) submit information that was current, accurate, and complete; or
- (3) disclose changes in the Contractor's commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

- (1) The amount of the overpayment; and
- (2) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective each quarter prescribed by the Secretary of Treasury under 26 U.S.C. 6621(a)(2).

(d) Failure to agree on the amount of the decrease shall be resolved as a dispute.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

#### **552.215-73 NOTICE (JUL 2016)**

(a) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(b) GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Requests for pre-award debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for post-award debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.

#### **552.216-70 ECONOMIC PRICE ADJUSTMENT – FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999) (ALTERNATE I – SEP 1999)**

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reductions clause.

(b) Contractors may request price increases to be effective on or after the first 12 months of the contract period providing all of the following conditions are met:

- (1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/price list that was used as the basis for the contract award.
  - (2) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of this subparagraph (b)).
  - (3) Increases are requested before the last 60 days of the contract period.
  - (4) At least 30 days elapse between requested increases.
- (c) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed (10%) ten percent of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change. *[Insert the percentage appropriate at the time the solicitation is issued. This percentage should be determined based on the trend established by an appropriate index such as the Producer Prices and Price Index. A ceiling of more than 10 percent must be approved by the Contracting Director.]*
- (d) The following material shall be submitted with the request for a price increase:
- (1) A copy of the commercial catalog/price list showing the price increase and the effective date for commercial customers.
  - (2) Commercial Sales Practices Format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/price list, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.
  - (3) Documentation supporting the reasonableness of the price increase.
- (e) The Government reserves the right to exercise one of the following options:
- (1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;
  - (2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,
  - (3) Remove the product(s) from contract involved pursuant to the Cancellation clause of this contract, when the increase requested is not supported.
- (f) The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

Note: Regulation 552.216-70

THIS REGULATION FOR ECONOMIC PRICE ADJUSTMENT (EPA) IS RELATING TO PRODUCTS AND /OR SERVICES THAT WERE AWARDED BASED ON A COMMERCIAL CATALOG PRICE.

**552.223-73 PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS MATERIALS (HAZMAT) FOR SHIPMENTS (JUN 2015)**

- (a) *Definition. United States*, as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii,



and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM-D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24-204, Air Force Inter- Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24-204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

#### **552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)**

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

#### **552.229-71 FEDERAL EXCISE TAX—DC GOVERNMENT (SEP 1999)**

If the District of Columbia cites an Internal Revenue Tax Exempt Certificate Number on orders placed under this contract, the Contractor shall bill shipments to the District of Columbia at prices exclusive of Federal excise tax and show the amount of such tax on the invoice.

#### **552.232-23 ASSIGNMENT OF CLAIMS (SEP 1999)**

Because this is a requirements or indefinite quantity contract under which more than one agency may place orders, paragraph (a) of the Assignment of Claims clause (FAR 52.232-23) is inapplicable and the following is substituted therefor:

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as "the Act"), all amounts due or to become due under any order amounting to \$1,000 or more issued by any Government agency under this contract. Any such assignment takes effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the finance office designated in the order to make payment. Unless otherwise stated in the order, payments to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

#### **552.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013) (FAR DEVIATION - JUL 2015)**

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such language, provision, or clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(b) Paragraph (a) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

#### **552.232-74 INVOICE PAYMENTS (SEP 1999)**

(a) The due date for making invoice payments by the designated payment office is:

(1) For orders placed electronically by the General Services Administration (GSA) Federal Supply Service (FSS), and to be paid by GSA through electronic funds transfer (EFT), the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the

date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(2) For all other orders, the later of the following two events:

(i) The 30th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor.

(3) On a final invoice, if the payment amount is subject to contract settlement actions, acceptance occurs on the effective date of the contract settlement.

(b) The General Services Administration will issue payment on the due date in (a)(1) above if the Contractor complies with full cycle electronic commerce. Full cycle electronic commerce includes all the following elements:

(1) The Contractor must receive and fulfill electronic data interchange (EDI) purchase orders (transaction set 850).

(2) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

(3) The Contractor's financial institution must receive and process, on behalf of the Contractor, EFT payments through the Automated Clearing House (ACH) system.

(4) The EDI transaction sets in (b)(1) through (b)(3) above must adhere to implementation conventions provided by GSA.

(c) If any of the conditions in (b) above do not occur, the 10 day payment due dates in (a)(1) become 30 day payment due dates.

(d) Notwithstanding paragraph (g) of the clause at FAR 52.212-4, Contract Terms and Conditions--Commercial Items, if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required.

(e) All other provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment, apply.

#### **552.232-78 COMMERCIAL SUPPLIER AGREEMENTS – UNENFORCEABLE CLAUSES (JUL 2015)**

(a) When any supply or service acquired under this contract is subject to a commercial supplier agreement, the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or

instrumentality of the U.S. Government, the following shall apply:

(i) *Applicability*. This agreement is part of a contract between the commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders not using FAR Part 12).

(ii) *End user*. This agreement shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

(iii) *Law and disputes*. This agreement is governed by Federal law. (A) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted. (B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted. (C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance*. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in 52.233-1 Disputes.

(v) *Arbitration; equitable or injunctive relief*. In the event of a claim or dispute arising under or relating to this agreement, (A) binding arbitration shall not be used unless specifically authorized by agency guidance, and (B) equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) Additional terms.

(A) This commercial supplier agreement may unilaterally incorporate additional terms by reference. Terms may be included by reference using electronic means (e.g., via web links, click and accept, etc). Such terms shall be enforceable only to the extent that:

(1) When included by reference using electronic means, the terms are readily available at referenced locations; and

(2) Terms do not materially change government obligations; and

(3) Terms do not increase government prices; and

(4) Terms do not decrease overall level of service; and

(5) Terms do not limit any other Government right addressed elsewhere in this contract.

(B) The order of precedence clause of this contract notwithstanding, any software license terms unilaterally revised subsequent to award that is inconsistent with any material term or provision of this contract is not enforceable against the government.

(vii) *No automatic renewals*. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express Government approval.

(viii) *Indemnification.* Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits.* Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows: (A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order. (B) This charge, if disputed by the ordering activity, will be resolved through the Disputes clause at 52.233-1; no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process. (C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the Government.

(x) *Taxes or surcharges.* Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(xi) *Non-assignment.* This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under the clause at 52.232-23, Assignment of Claims.

(xii) *Confidential information.* If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the Federal Supply Schedule price list shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any provision of this agreement conflicts or is inconsistent with the preceding subparagraph (a)(1), the provisions of subparagraph (a)(1) shall prevail to the extent of such inconsistency.

#### **552.232-79 PAYMENT BY CREDIT CARD (MAY 2003)**

(a) Definitions.

"Credit card" means any credit card used to pay for purchases, including the Governmentwide Commercial Purchase Card.

"Governmentwide commercial purchase card" means a uniquely numbered credit card issued by a contractor under GSA's Governmentwide Contract for Fleet, Travel, and Purchase Card Services to named individual Government employees or entities to pay for official Government purchases.

"Oral order" means an order placed orally either in person or by telephone.

(b) The Contractor must accept the credit card for payments equal to or less than the micro-purchase threshold (see Federal Acquisition Regulation 2.101) for oral or written orders under this contract.

(c) The Contractor and the ordering agency may agree to use the credit card for dollar amounts over the micro-purchase threshold, and the Government encourages the Contractor to accept payment by the purchase card. The dollar value of a purchase card action must not exceed the ordering agency's

established limit. If the Contractor will not accept payment by the purchase card for an order exceeding the micro-purchase threshold, the Contractor must so advise the ordering agency within 24 hours of receipt of the order.

(d) The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased supplies have been shipped or services performed.

Unless the cardholder requests correction or replacement of a defective or faulty item under other contract requirements, the Contractor must immediately credit a cardholder's account for items returned as defective or faulty.

(e) Payments made using the Governmentwide commercial purchase card are not eligible for any negotiated prompt payment discount. Payment made using an ordering activity debit card will receive the applicable prompt payment discount.

#### **552.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989) (DEVIATION FAR 52.232-8) (ALTERNATE I — MAY 2003)**

(a) Discounts for early payment (hereinafter referred to as "discounts" or "the discount") will be considered in evaluating the relationship of the offeror's concessions to the Government vis-a-vis the offeror's concessions to its commercial customers, but only to the extent indicated in this clause.

(b) Discounts will not be considered to determine the low offeror in the situation described in the "Offers on Identical Products" provision of this solicitation.

(c) Uneconomical discounts will not be considered as meeting the criteria for award established by the Government. In this connection, a discount will be considered uneconomical if the annualized rate of return for earning the discount is lower than the "value of funds" rate established by the Department of the Treasury and published quarterly in the Federal Register. The "value of funds" rate applied will be the rate in effect on the date specified for the receipt of offers.

(d) Discounts for early payment may be offered either in the original offer or on individual invoices submitted under the resulting contract. Discounts offered will be taken by the Government if payment is made within the discount period specified.

(e) Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

(f) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

#### **552.232-81 PAYMENTS BY NON-FEDERAL ORDERING ACTIVITIES (MAY 2003)**

If eligible non-federal ordering activities are subject to a State prompt payment law, the terms and conditions of the applicable State law apply to the orders placed under this contract by such activities. If eligible non-federal ordering activities are not subject to a State prompt payment law, the terms and conditions of the Federal Prompt Payment Act as reflected in Federal Acquisition Regulation clause 52.232-25, Prompt Payment, or 52.212-4, Contract Terms and Conditions—Commercial Items, apply to such activities in the same manner as to Federal ordering activities.

#### **552.232-83 CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003)**

The Contractor is required to perform all billings made pursuant to this contract. However, if the Contractor has dealers that participate on the contract and the billing/payment process by the Contractor for sales made by the dealer is a significant administrative burden, the following alternative procedures may be used. Where dealers are allowed by the Contractor to bill ordering activities and accept payment in the Contractor's name, the Contractor agrees to obtain from all dealers participating in the performance of the contract a written agreement, which will require dealers to—

- (1) Comply with the same terms and conditions regarding prices as the Contractor for sales made under the contract;
- (2) Maintain a system of reporting sales under the contract to the manufacturer, which includes—
  - (i) The date of sale;
  - (ii) The ordering activity to which the sale was made;
  - (iii) The service or product/model sold;
  - (iv) The quantity of each service or product/model sold;
  - (v) The price at which it was sold, including discounts; and
  - (vi) All other significant sales data.
- (3) Be subject to audit by the Government, with respect to sales made under the contract; and
- (4) Place orders and accept payments in the name of the Contractor in care of the dealer.

An agreement between a Contractor and its dealers pursuant to this procedure will not establish privity of contract between dealers and the Government.

#### **552.238-70 IDENTIFICATION OF ELECTRONIC OFFICE EQUIPMENT PROVIDING ACCESSIBILITY FOR THE HANDICAPPED (SEP 1991)**

(a) Definitions. "Electronic office equipment accessibility" means the application/configuration of electronic office equipment (includes hardware, software, and firmware) in a manner that accommodates the functional limitations of individuals with disabilities (i.e., handicapped individuals) so as to promote productivity and provide access to work related and/or public information resources.

"Handicapped individuals" mean qualified individuals with impairments as cited in 29 CFR 1613.702(f) who can benefit from electronic office equipment accessibility.

"Special peripheral" means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.

(b) The offeror is encouraged to identify in its offer, and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for handicapped individuals. Identification should include the type of disability accommodated and how the users with that disability would be helped.

#### **552.238-72 IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (SEP 2003)**

(a) Several laws, Executive orders and Agency directives require Federal buyers to purchase products that are less harmful to the environment, when they are life cycle cost-effective (see FAR Subpart 23.7).

The U.S. General Services Administration (GSA) requires contractors to highlight environmental products under Federal Supply Service schedule contracts in various communications media (e.g., publications and electronic formats).

(b) Definitions. As used in this clause —

Energy-efficient product means a product that—

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR [reg] trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

*GSA Advantage!*<sup>®</sup> is an on-line shopping mall and ordering system that provides customers with access to products and services under GSA contracts.

Other environmental attributes refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

Post-consumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is part of the broader category of "recovered material." The Environmental Protection Agency (EPA) has developed a list of EPA-designated products in their Comprehensive Procurement Guidelines (CPGs) to provide Federal agencies with purchasing recommendations on specific products in a Recovered Materials Advisory Notice (RMAN). The RMAN contains recommended recovered and post-consumer material content levels for the specific products designated by EPA (40 CFR part 247 and <http://www.epa.gov/cpg/>).

Recovered materials means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (Executive Order 13101 and 42 U.S.C. 6903 (19) and <http://www.epa.gov/cpg/>). For paper and paper products, see the definition at FAR 11.301 (42 U.S.C. 6962 (h)).

Remanufactured means factory rebuilt to original specifications.

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

(c) (1) The offeror must identify products that—

(i) Are compliant with the recovered and post-consumer material content levels recommended in the Recovered Materials Advisory Notices (RMANs) for EPA-designated products in the CPG program (<http://www.epa.gov/cpg/>);

(ii) Contain recovered materials that either do not meet the recommended levels in the RMANs or are not EPA-designated products in the CPG program (see FAR 23.401 and



<http://www.epa.gov/cpg/>);

(iii) Are energy-efficient, as defined by either ENERGY STAR [reg] and/or FEMP's designated top 25th percentile levels (see ENERGY STAR [reg] at <http://www.energystar.gov/> and FEMP at <http://www.eere.energy.gov/>);

(iv) Are water-efficient;

(v) Use renewable energy technology;

(vi) Are remanufactured; and

(vii) Have other environmental attributes.

(2) These identifications must be made in each of the offeror's following mediums:

(i) The offer itself.

(ii) Printed commercial catalogs, brochures, and pricelists.

(iii) Online product website.

(iv) Electronic data submission for GSA *Advantage!*<sup>®</sup> submitted via GSA's Schedules Input Program (SIP) software or the Electronic Data Inter-change (EDI). Offerors can use the SIP or EDI methods to indicate environmental and other attributes for each product that is translated into respective icons in GSA *Advantage!*<sup>®</sup>.

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

(1) Participation in a Federal agency-sponsored program (e.g., the EPA and DOE ENERGY STAR [reg] product labeling program);

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research, study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

#### **552.238-73 CANCELLATION (SEP 1999)**

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 calendar days after the other party receives the notice of cancellation. If the Contractor elects to cancel this contract, the Government will not reimburse the minimum guarantee.

#### **552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014)**

(a) Reporting of Federal Supply Schedule Sales. The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1-March 31,

April 1-June 30, July 1-September 30, and October 1-December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The acceptable points at which sales may be reported include —

- (i) Receipt of order;
- (ii) Shipment or delivery, as applicable;
- (iii) Issuance of an invoice; or
- (iv) Payment.

(2) Contract sales shall be reported to Federal Acquisition Services (FAS) within 30 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including "zero" sales, through physical completion of the last outstanding task order or delivery order of the contract.

(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4) The Contractor shall electronically report the quarterly dollar value of sales, including "zero" sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA)'s Federal Acquisition Service (FAS). Prior to using this automated system, the Contractor shall complete contract registration with the FAS Vendor Support Center (VSC). The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5) The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the "Treasury Reporting Rates of Exchange" issued by the U.S. Department of Treasury, Financial Management Service. The Contractor shall use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from Financial Management Service, International Funds Branch, Telephone: (202) 874-7994, Internet: [http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch\\_home.htm](http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch_home.htm)

(b) The Contractor shall remit the IFF at the rate set by GSA's FAS.

(1) The Contractor shall remit the IFF to FAS in U.S. dollars within 30 calendar days after the end of the reporting quarter; final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(2) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA's FAS. GSA's FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FAS will post notice of the current IFF at <https://72a.gsa.gov/> or successor website as appropriate.

(c) Within 60 days of award, an FAS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FAS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(d) Failure to remit the full amount of the IFF within 30 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, this is sufficient cause for the Government to terminate the contract for cause.

#### **552.238-75 PRICE REDUCTIONS (JUL 2016)**

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor —

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales —

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies;

(3) Made to Eligible Ordering Activities identified in GSAR Clause 552.238-78 when the order is placed under this contract (and the Eligible Ordering Activities identified in GSAR Clause 552.238-78 is the agreed upon customer or category of customer that is the basis of award); or

(4) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

Note: Regulation 552.238-75

Note: In accordance with GSAR clause 552.238-78 Scope of Contract (Eligible Ordering Activities)(Alternate I)(a)(2) and GSAR clause 552.238-75 Price Reductions(d)(2), there shall be no price reduction for sales made under the authority of the Federal Acquisition Regulation (FAR) Part 51 class deviation. With written authorization by a Federal Government contracting officer, a GSA contractor may place an order as an eligible ordering activity with a Schedule contractor. In this case, the Schedule contract sale shall not trigger a price reduction.

#### **552.238-77 DEFINITION (FEDERAL SUPPLY SCHEDULES) (JUL 2016)**

*Ordering activity* (also called “ordering agency” and “ordering office”) means an eligible ordering activity (see 552.238-78), authorized to place orders under Federal Supply Schedule contracts.

#### **552.238-78 SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES) (JUL 2016)**

(a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. For Special Item Number 132-53, Wireless Services ONLY, limited geographic coverage (consistent with the Offeror’s commercial practice) may be proposed.

(1) Executive agencies (as defined in FAR Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000);

(2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1;

(3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);

(4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol);

(5) The Government of the District of Columbia;

(6) Tribal governments when authorized under 25 U.S.C. 450j(k);

(7) Tribes or tribally designated housing entities pursuant to 25 U.S.C. 4111(j);

(8) Qualified Nonprofit Agencies as authorized under 40 U.S.C. 502(b); and

(9) Organizations, other than those identified in paragraph (d) below, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

## (b) Definitions —

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

## (c) Offerors are requested to check one of the following boxes:

\_\_\_\_\_ Contractor will provide domestic and overseas delivery.

\_\_\_\_\_ Contractor will provide overseas delivery only.

\_\_\_\_\_ Contractor will provide domestic delivery only.

## (d) The following activities may place orders against Schedule contracts:

(1) State and local government may place orders against Schedule 70 contracts, and Consolidated Schedule contracts containing information technology Special Item Numbers, and Schedule 84 contracts, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities;

(2) The American National Red Cross may place orders against Federal Supply Schedules for products and services in furtherance of the purposes set forth in its Federal charter (36 U.S.C. § 300102); PROVIDED, the Contractor accepts order(s) from the American National Red Cross; and

(3) Other qualified organizations, as defined in section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5152), may place orders against Federal Supply Schedules for products and services determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency; PROVIDED, the Contractor accepts order(s) from such activities.

(4) State and local governments may place orders against Federal Supply Schedules for good or services determined by the Secretary of Homeland Security to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.) to facilitate disaster preparedness or response, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack; PROVIDED, the Contractor accepts order(s) from such activities.

(e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.

(f) (1) The Contractor is obligated to accept orders received from activities within the Executive Branch

of the Federal Government.

(2) The Contractor is not obligated to accept orders received from activities outside the Executive Branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause 552.232-79, Payments by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept

such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause 552.232-79, Payment by Credit Card.) Failure to return an order or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.

(g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of \$2,500 (two thousand, five hundred dollars) during the contract term.

(h) All users of GSA's Federal Supply Schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services. GSA encourages non-Federal users to follow the Schedule Ordering Procedures set forth in the Federal Acquisition Regulation (FAR) 8.4, but they may use different established competitive ordering procedures if such procedures are needed to satisfy their state and local acquisition regulations and/or organizational policies.

#### **552.238-79 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (JUL 2016)**

(a) If an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), elects to place an order under this contract, the entity agrees that the order shall be subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies "Compliance with laws unique to Government contracts" (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA, that shall mean the individual responsible for placing the order for the ordering activity (e.g., FAR 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions required by statute, ordinance, regulation, order, or as otherwise allowed by State and local government entities as a part of a statement of work (SOW) or statement of objective (SOO) to the extent that these terms and conditions do not conflict with the terms and conditions of the Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity's order, without recourse to the agency of the U.S.

Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), the Contractor agrees to the following conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(c) In accordance with clause 552.238-74, Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number:

(1) The dollar value for sales to entities identified in paragraph (a) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), and

(2) The dollar value for sales to entities identified in paragraph (d) of clause 552.238-78.

#### **552.238-81 MODIFICATIONS (FEDERAL SUPPLY SCHEDULE) (APR 2014) (ALTERNATE I – JUN 2016)**

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications.*

(1) Additional items/additional SINs. When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new items(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, *Place of Performance*.

(vi) Hazardous Material information (if applicable) must be submitted as required by 52.223-3 (ALT I), *Hazardous Material Identification and Material Safety Data*.

(vii) Any information requested by 52.212-3(f), *Offeror Representations and Certifications—Commercial Items*, that may be necessary to assure compliance with FAR 52.225-1, *Buy American Act—Balance of Payments Programs—Supplies*.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-75. If the Price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective dates*. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates*. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 552.238-75.

(e) *Amendments to Paper Federal Supply Schedule Price Lists*.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February—April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

(f) Electronic submission of modification requests is mandatory via eMod (<http://eOffer.gsa.gov>), unless otherwise stated in the electronic submission standards and requirements at the Vendor Support Center website (<http://vsc.gsa.gov>). If the electronic submissions standards and requirements



information is updated at the Vendor Support Center website, Contractors will be notified prior to the effective date of the change.

**552.246-73 WARRANTY—MULTIPLE AWARD SCHEDULE  
(MAR 2000) (ALTERNATE I—MAY 2003)**

(a) Applicable to domestic locations. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the Contractor's commercial price list applies to this contract.

(b) Applicable to overseas destinations. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the commercial price list applies to this contract, except as follows:

- (1) The Contractor must provide, at a minimum, a warranty on all non-consumable parts for a period of 90 days from the date that the ordering activity accepts the product.
- (2) The Contractor must supply parts and labor required under the warranty provisions free of charge.
- (3) The Contractor must bear the transportation costs of returning the products to and from the repair facility, or the costs involved with Contractor personnel traveling to the ordering activity facility for the purpose of repairing the product onsite, during the 90 day warranty period.

**552.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (SEP 1999)  
(DEVIATION FAR 52.252-6)**

(a) Deviations to FAR clauses.

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of "(DEVIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of "(DEVIATION (FAR clause no.))" after the date of the clause.

(b) Deviations to GSAR clauses. This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause.

(c) "Substantially the same as" clauses. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

**C-FSS-370 CONTRACTOR TASKS / SPECIAL REQUIREMENTS  
(NOV 2003)**

(a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.

(b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under

the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.

(c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.

(d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.

(e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.

(f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.

(g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.

(h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.

(i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.

(j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

(k) Overtime: For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

### **C-FSS-412 CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2000)**

Contractors supplying equipment which uses electrical current are required to supply equipment suitable for the electrical system at the location at which the equipment is to be used as specified on the order.

### **C-FSS-425 WORKMANSHIP (OCT 1988)**

Any item contracted for must be new, current model at the time of offer, unless otherwise specified. Each article must perform the functions for its intended use.

**C-FSS-427 ANSI STANDARDS (JUL 1991)**

ANSI Standards cited in this solicitation may be obtained from the American National Standards Institute, Inc., 11 West 42nd Street, 13th Floor, New York, NY 10036 (Tel: (212) 642-4900).

**CI-FSS-002 SUBMISSION OF OFFERS—ADDITIONAL INSTRUCTIONS (MAR 1996)**

Offerors are requested to submit a signed original and 2 copies of SF-1449 together with all addenda and attachments complete in every respect with the exception of oversized blueprints, drawings, or similar documents attached to the solicitation. Oversized blueprints, drawings, or similar documents are not required to be duplicated for the purpose of submitting a duplicate copy of the offer to GSA.

**CI-FSS-052 AUTHENTICATION PRODUCTS AND SERVICES (JAN 2010)**

(a) General Background.

(1) The General Services Administration (GSA) originally established the Access Certificates for Electronic Services (ACES) Program to provide digital certificates and PKI services for enabling e-Government applications that require logical access control, digital signature and/or electronic authentication. The ACES Program provided for the issuance of electronic credentials to individuals and entities external to the Federal Government. The Federal PKI Policy Authority approved the policies and requirements of the ACES Program to satisfy the Federal requirements for cross-certification with the Federal Bridge Certification Authority (FBCA) and participation in the Federal e-Authentication initiative. The term "Identity and Access Management" (IAM) is now being used to clearly define the kinds of services that meet the requirements for service providers and products that support FISMA-compliant IAM systems deployed by federal agencies. In addition, many states have adopted corresponding standards for IAM.

(2) Homeland Security Presidential Directive 12 (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors" establishes the requirement for a mandatory Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractor employees assigned to Government contracts in order to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy. Further, the Directive requires the Department of Commerce to promulgate a Federal standard for secure and reliable forms of identification within six months of the date of the Directive. As a result, the National Institute of Standards and Technology (NIST) released Federal Information Processing Standard (FIPS) 201: Personal Identity Verification of Federal Employees and Contractors on February 25, 2005. FIPS 201 requires that the digital certificates incorporated into the Personal Identity Verification (PIV) identity credentials comply with the X.509 Certificate Policy for the U.S. Federal PKI Common Policy Framework. In addition, FIPS 201 requires that Federal identity badges referred to as PIV credentials, issued to Federal employees and contractors comply with the Standard and associated NIST Special Publications 800-73, 800-76, 800-78, and 800-79.

(b) Special Item Numbers.

The General Services Administration has established the e-Authentication Initiative (see URL: <http://www.idmanagement.gov>) to provide common infrastructure for the authentication of the public and internal federal users for logical access to Federal e-Government applications and electronic services. To support the government-wide implementation of HSPD-12 and the Federal e-Authentication Initiative, GSA has established Special Item Numbers (SINs) pertaining to Authentication Products and Services, including Electronic Credentials, Digital Certificates, e-Authentication, Identify and Access Management, PKI Shared Service Providers, and HSPD-12 Product and Service Components.

(c) Qualification Information.

(1) All Authentication Products and Services must be qualified as being compliant with Government-wide requirements before they will be included on a GSA Information Technology (IT) Schedule contract. The Qualification Requirements and associated evaluation procedures against the Qualification Requirements for each SIN and the specific Qualification Requirements for HSPD-12 implementation components are presented at the following URL:  
<http://www.idmanagement.gov>.

(2) In addition, the National Institute of Standards and Technology (NIST) has established the NIST Personal Identity Verification Program (NPIVP) to evaluate integrated circuit chip cards and products against conformance requirements contained in FIPS 201. GSA has established the FIPS 201 Evaluation Program to evaluate other products needed for agency implementation of HSPD-12 requirements where normative requirements are specified in FIPS 201 and to perform card and reader interface testing for interoperability. Products that are approved as FIPS-201 compliant through these evaluation and testing programs may be offered directly through the HSPD-12 Product and Services Components SIN, under the category "Approved FIPS 201-Compliant Products and services".

(d) Qualification Requirements.

(1) Offerors proposing Authentication products and services under the established Special Item Numbers (SINs) are required to provide the following:

(i) Proposed items must be determined to be compliant with Federal requirements for that Special Item Number. Qualification Requirements and procedures for the evaluation of products and services are posted at the URL: <http://www.idmanagement.gov>. GSA will follow these procedures in qualifying offeror's products and services against the Qualification Requirements for applicable to SIN. Offerors must submit all documentation certification letter(s) for Authentication Products and Services offerings at the same time as the submission of proposal. Award will be dependent upon receipt of official documentation from the Acquisition Program Management Office (APMO) listed below verifying satisfactory qualification against the Qualification Requirements of the proposed SIN(s).

(ii) After award, Contractor agrees that certified products and services will not be offered under any other SIN on any GSA Multiple Award Schedule.

(iii) (A) If the Contractor changes the products or services previously qualified, GSA may require the contractor to resubmit the products or services for re-qualification.

(B) If the Federal Government changes the qualification requirements or standards, Contractor must resubmit the products and services for re-qualification.

(2) Immediately prior to making an award, Contracting Officers MUST consult the following website to ensure that the supplies and/or services recommended for award under any Authentication Products and Services SINs are in compliance with the latest APL qualification standards: [www.idmanagement.gov](http://www.idmanagement.gov). A dated copy of the applicable page should be made and included with award documents.

(e) Demonstrating Conformance.

(1) The Federal Government has established Qualification Requirements for demonstrating conformance with the Standards. The following websites provide additional information regarding the evaluation and qualification processes:

(i) For Access Certificates for Electronic Services (ACES) and PKI Shared Service

Provider (SSP) Qualification Requirements and evaluation procedures:  
<http://www.idmanagement.gov>;

(ii) For HSPD-12 Product and Service Components Qualification Requirements and evaluation procedures: <http://www.idmanagement.gov>;

(iii) For FIPS 201 compliant products and services qualification and approval procedures: <http://www.csrc.nist.gov/piv-project/> and <http://www.smart.gov> .

(f) Acquisition Program Management Office (APMO).

GSA has established the APMO to provide centralized technical oversight and management regarding the qualification process to industry partners and Federal agencies. Contact the following APMO for information on the e-Authentication Qualification process. Technical, APMO, FIPS 201 and HSPD-12 Points of Contacts can be found below, or in an additional attachment to the Solicitation.

See Attachment

### **CI-FSS-055 COMMERCIAL SATELLITE COMMUNICATION (COMSATCOM) SERVICES (DEC 2014)**

To ensure the protection of controlled unclassified information (CUI) as required by Federal Information Security Management Act of 2002 and DoDM 5200.01-V4 (DoD Information Security Program: Controlled Unclassified Information (CUI) the following shall be implemented.

(a) *General Background.*

Special Item Numbers (SINs) have been established for Commercial Satellite Communications (COMSATCOM) services, focused on transponded capacity (SIN 132-54) and fixed and mobile subscription services (SIN 132-55), to make available common COMSATCOM services to all Ordering Activities.

(b) *Information Assurance.*

(1) The Contractor shall demonstrate, to the maximum extent practicable, the ability to meet:

(i) The Committee on National Security Systems Policy (CNSSP) 12, "National Information Assurance Policy for Space Systems used to Support National Security Missions," or

(ii) Department of Defense Directive (DoDI) 8581.1, "Information Assurance (IA) Policy for Space Systems Used by the Department of Defense."

(2) The Contractor shall demonstrate the ability to comply with the Federal Information Security Management Act of 2002 as implemented by Federal Information Processing Standards Publication 200 (FIPS 200), "Minimum Security Requirements for Federal Information and Information Systems." In response to Ordering Activity requirements, at a minimum, all services shall meet the requirements assigned against:

(i) A low-impact information system (per FIPS 200) that is described in the current revision of National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, "Recommended Security Controls for Federal Information Systems and Organizations,"

(3) The Contractor's information assurance boundary is where the Contractor's services connect to the user terminals/equipment (i.e., includes satellite command encryption

(ground and space); systems used in the Satellite Operations Centers (SOCs), Network Operations Centers (NOCs) and teleport; and terrestrial infrastructure required for service delivery).

*(c) Delivery Schedule.*

The Contractor shall deliver COMSATCOM services in accordance with 552.211-78.

*(d) Portability.*

The Contractor shall have the capability to redeploy COMSATCOM services, subject to availability. Portability shall be provided within the COMSATCOM Contractor's resources at any time as requested by the Ordering Activity. When portability is exercised, evidence of equivalent net present value (NPV) shall be provided by the Contractor.

*(e) Flexibility/Optimization.*

The Contractor shall have the capability to re-groom resources for spectral, operational, or price efficiencies. Flexibility/optimization shall be provided within the COMSATCOM Contractor's resources at any time as requested by the Ordering Activity. When flexibility/optimization is exercised, evidence of equivalent net present value (NPV) shall be provided by the contractor. The Contractor is encouraged to submit re-grooming approaches for Ordering Activity consideration that may increase efficiencies for existing COMSATCOM services.

*(f) Net Ready (Interoperability).*

COMSATCOM services shall be consistent with commercial standards and practices. Services shall have the capability to access and/or interoperate with Government or other Commercial teleports/gateways and provide enterprise service access to or among networks or enclaves. Interfaces may be identified as interoperable on the basis of participation in a sponsored interoperability program.

*(g) Network Monitoring (Net OPS).*

The Contractor shall have the capability to electronically collect and deliver near real-time monitoring, fault/incident/outage reporting, and information access to ensure effective and efficient operations, performance, and availability, consistent with commercial practices. Consistent with the Contractor's standard management practices, the Net Ops information will be provided on a frequency (example: every 6 hours, daily) and format (example: SNMP, XML) as defined in a requirement to a location/entity/electronic interface defined by the Ordering Activity. Specific reporting requirements will be defined by the Ordering Activity.

*(h) EMI/RFI Identification, Characterization, and Geo-location.*

The Contractor shall have the capability to collect and electronically report in near real-time Electro Magnetic Interference (EMI) / Radio Frequency Interference (RFI) identification, characterization, and geo-location, including the ability to identify and characterize sub-carrier EMI/RFI being transmitted underneath an authorized carrier, and the ability to geo-locate the source of any and all EMI/RFI. The Contractor shall establish and use with the Ordering Activity a mutually agreed upon media and voice communications capability capable of protecting "Sensitive, but Unclassified" data.

*(i) Security.*

(1) The contractor may be required to obtain/possess varying levels of personnel and facility security clearances up to U.S. Government TOP SECRET/Sensitive Compartmented Information (TS/SCI) or equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally.

(2) For incident resolution involving classified matters, the Contractor shall provide appropriately

cleared staff who can affect COMSATCOM services operations (example: satellite payload operations, network operations). The Contractor shall provide a minimum of one operations staff member AND a minimum of one person with the authority to commit the company if resolution requires business impacting decisions (example: Chief Executive Officer, Chief Operations Officer, etc.).

(3) When Communications Security or Transmission Security equipment or keying material is placed in the equipment/terminal shelter, the Contractor shall ensure compliance with applicable physical security directives/guidelines and that all deployed equipment/terminal operations and maintenance personnel shall possess the appropriate clearances, equal to or higher than the classification level of the data being transmitted. Where local regulations require use of foreign personnel for terminal operations and maintenance, then the Contractor shall ensure compliance with applicable security directives/guidelines and document to the U.S. Government's satisfaction that protective measures are in place and such individuals have equivalent clearances granted by the local host nation.

(4) For classified operations security (OPSEC), the Contractor shall ensure that all personnel in direct contact with classified OPSEC indicators (example: the unit, location, and time of operations) have U.S. SECRET or higher personnel security clearances, or, as appropriate, equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally, in accordance with applicable security directives and guidelines.

(5) To ensure the capability of communicating classified intelligence information to satellite vendors cleared satellite vendor/staff must have access to secure voice communications for emergency purposes. Communications security equipment (COMSEC) certified by the National Security Agency (NSA) to secure critical unclassified and up to and including SECRET communication transmissions at their operating locations is required.

(6) The Contractor shall have the capability to "mask" or "protect" users against unauthorized release of identifying information to any entity that could compromise operations security. Identifying information includes but is not limited to personal user and/or unit information including tail numbers, unit names, unit numbers, individual names, individual contact numbers, street addresses, etc.

*(j) Third party billing for COMSATCOM subscription services.*

The Contractor shall identify authorized network infrastructure for the Ordering Activity. In some cases, the user of the terminal may access network infrastructure owned or operated by a third party. In the event a terminal is used on a third party's network infrastructure, the Contractor shall provide to the Ordering Activity, invoices and documentation reflecting actual usage amount and third party charges incurred. The Ordering Activity shall be billed the actual third party charges incurred, or the contract third party billing price, whichever is less.

*(k) DoD Solicitation Pre and Post Award Requirement for Communications and Data Protection Using External Certificate Authority Public Key Infrastructure (ECA PKI).*

To ensure the protection of controlled unclassified information (CUI) as required by Federal Information Security Management Act of 2002 and DoDM 5200.01-V4 (DoD Information Security Program: Controlled Unclassified Information (CUI) the following shall be implemented.

(1) Vendors shall digitally sign and encrypt all DoD RFQ and task order related documents, to include contract deliverables, emailed to government agents. Government agents include, but are not limited to, DISA (COMSATCOM Center), DITCO, the Regional SATCOM Support Centers, General Services Administration, users of contractor-provided services, and government-contracted support. Digital signatures and encryption shall be provided through the use of Medium Hardware Assurance Public Key Infrastructures certificates, and associated hardware, issued by one of the approved External Certificate Authority (ECA) vendors. Contractors that desire to respond to DoD task order solicitations, receive and perform DoD task

orders shall obtain this capability within 10 days after award of Schedule 70 Contract SINs 135-54 & 132-55 or BPAs for satellite services. Existing Schedule 70 Contractor holders of SINs 132-54 & 132-55 interested in bidding on DoD Task Orders shall obtain this capability prior to bidding on any DoD solicitations.

(2) The following DISA web page (<http://iase.disa.mil/pki/eca/>) provides links to approved ECAs. To obtain a certificate, select one of the approved ECA vendors and complete the registration. Each individual registering for a PKI certificate must verify their identity during the registration process. ECA vendors charge a fee for each registration.

Note: Regulation CI-FSS-055

For additional Modification guidelines and instructions, specifically pertaining to COMSATCOM, please review the documentation published to <http://www.gsa.gov/schedule70>, and <http://www.gsa.gov/fcsa>.

### **CI-FSS-056 FEDERAL ACQUISITION REGULATION (FAR) PART 51 DEVIATION AUTHORITY (FEDERAL SUPPLY SCHEDULES) (JAN 2010)**

#### *(a) General Background.*

On October 8, 2009, a class deviation to FAR Part 51 was granted by GSA's Senior Procurement Executive in accordance with FAR Subpart 1.404, Class deviations. The deviation permits federal contracting officers to authorize GSA contractors, who are performing an order on a time-and-material or labor-hour basis, to purchase supplies and services from schedule contractors or to process requisitions through the Global Supply Program.

#### *(b) Orders.*

Orders placed using the FAR Part 51 deviation shall be:

- (1) Placed on a time-and-materials (T&M)/labor-hour (LH) basis—an order placed by the Federal Government to the buying contractor can be partially fixed price, but the portion of the order for the items to be procured using the FAR Part 51 deviation shall be T&M/LH;
- (2) For ancillary supplies/services that are in support of the overall order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;
- (3) Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- (4) Placed by the Federal Government. The authorization is **NOT** available to state and local governments.

(c) For comprehensive guidance on the proper use the FAR Part 51 authority granted by the deviation, please refer to the Ordering Guide at [www.gsa.gov/far51deviation](http://www.gsa.gov/far51deviation).

### **CI-FSS-152-N ADDITIONAL EVALUATION FACTORS FOR NEW OFFERORS UNDER SCHEDULE 70 (SEP 2016)**



(a) The Government will consider award to an offeror who has been determined to be responsible, whose offer conforms to all solicitation requirements, who is determined technically acceptable, who has acceptable past performance, and whose prices are determined fair and reasonable.

(b) All technical evaluation factors will be reviewed, evaluated, and rated acceptable or unacceptable based on the criteria listed below. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any technical evaluation factor, by SIN, will result in an "unacceptable" rating overall for that SIN, and that SIN will be rejected. Offers determined unacceptable for all proposed SIN(s) will be rejected.

#### **I. TECHNICAL EVALUATION FACTORS:**

(1) FACTOR 1: Corporate Experience: See SCP-FSS-001-N

(2) FACTOR 2: Past Performance: See SCP-FSS-001-N

(3) FACTOR 3: Quality Control: See SCP-FSS-001-N

(4) FACTOR 4: Relevant Project Experience: See SCP-FSS-004. Additional requirements are:

(i.) SIN 132-45A Penetration Testing, SIN 132-45B Incident Response, SIN 132-45C Cyber Hunt, SIN 132-45D Risk and Vulnerability Assessment, SIN 132-51 IT Professional Services, SIN 132-60f Identity Access Management (IAM) Professional Services only.

(A) Provide a description of the offeror's experience in the professional information technology services offered under SIN 132-45A, SIN 132-45B, SIN 132-45C, SIN 132-45D, SIN 132-51 and/or SIN 132-60f. Describe three completed or on-going project(s), similar in size and complexity to the effort contemplated herein and in sufficient detail for the Government to perform an evaluation. For SIN 132-60f, two of the three projects described must be prior Federal Government application deployment projects for public-facing IT systems. Each completed example shall have been completed within the last two years. All examples of completed services shall have been found to be acceptable by the ordering activity. If the offeror cannot provide three examples of past experience, they may provide additional documentation to substantiate project experience to be evaluated by the contracting officer.

(B) Within the four-page limitation for each project narrative, offerors shall outline the following for proposed SINs SIN 132-45A, SIN 132-45B, SIN 132-45C, SIN 132-45D, SIN 132-51 and SIN 132-60f:

- 1) Provide background information on the project or projects presented to demonstrate expertise.
- 2) Outline how the project or projects are related to the proposed SIN(s).
- 3) Submit summary of the final deliverables for the noted project or projects.
- 4) Offerors shall demonstrate that the tasks performed are of a similar complexity to the work solicited under this solicitation.
- 5) Provide the following information for each project submitted:
  - i) Project/Contract Name;
  - ii) Project Description;

iii) Dollar Amount of Contract;

iv) Project Duration, which includes the original estimated completion date and the actual completion date; and

v) Point of Contact and Telephone Number.

(ii.) SIN 132-54, Commercial Satellite Communications (COMSATCOM) Transponded Capacity and/or SIN 132-55, COMSATCOM Subscription Services

(A) Provide a description of the offeror's experience delivering COMSATCOM services as described in CI-FSS-055 *Commercial Satellite Communication (COMSATCOM) Services*. For each COMSATCOM Services SIN proposed, describe three completed or ongoing projects, similar in size and complexity to the services the vendor is proposing to offer and in sufficient detail for the Government to perform an evaluation. (NOTE: If applying for both SIN 132-54 and 132-55, describe three projects related to SIN 132-54, and another three projects related to SIN 132-55.) All completed projects shall have been completed within the last three years prior to submission of the vendor's COMSATCOM Services SIN proposal. Performance of all completed projects shall have been found acceptable by the ordering activity. If the offeror cannot provide three projects, it may provide additional documentation to substantiate project experience to be evaluated by the contracting officer.

(B) Within the four-page limitation for each project narrative, the offeror shall include the following information:

1) Provide background information on the project presented to demonstrate familiarity and expertise servicing COMSATCOM requirements.

2) Outline how the project is related to the proposed COMSATCOM Services SIN.

3) Demonstrate that the tasks performed are of a similar size, scope, and complexity to the work solicited under this solicitation.

4) Provide the following information for each project submitted:

i) Project/Contract Name;

ii) Project Description;

iii) Dollar Amount of Contract;

iv) Project Duration, which includes the original estimated completion date and the actual completion date; and

v) Point of Contact and Telephone Number.

(iii.) Information Assurance Minimum Security Controls Compliance for SIN 132-54, Commercial Satellite Communications (COMSATCOM) Transponded Capacity Services and SIN 132-55, COMSATCOM Subscription Services only.

(A) Federal policy specifies Government customer compliance with the Federal Information Security Management Act of 2002 as implemented by Federal Information Processing Standards Publication 200 (FIPS 200), "Minimum Security Requirements for Federal Information and Information Systems." This

standard specifies minimum security requirements Federal agencies must meet, defined through the use of security controls described in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, "Recommended Security Controls for Federal Information Systems and Organizations," DoD Instruction (DoDI) 8500.2, "Information Assurance Implementation," and associated documents.

(B) Complete the Information Assurance Checklist found on the GSA SATCOM Services Program Management Office website (<http://www.gsa.gov/portal/content/122627>).

(C) The Government will evaluate the Information Assurance Checklist submitted as part of offeror's proposal to determine whether the offeror understands the minimum security controls, and has processes, personnel, and infrastructure that currently complies or demonstrates a reasonable approach to becoming compliant with all the minimum security controls for at least a low-impact information system or MAC III system.

(iv.) SIN 132-56 Health Information Technology Services

(A) Provide a description of the offeror's experience in the Health information technology services offered under SIN 132-56. Describe three completed or on-going project(s), similar in size and complexity to the effort contemplated herein and in sufficient detail for the Government to perform an evaluation. Each completed example shall have been completed within the last three years. All examples of completed services shall have been found to be acceptable by the ordering activity.

(B) Within the four-page limitation for each project narrative, offerors shall outline the following for proposed SIN 132-56:

- 1) Provide background information on the project or projects presented to demonstrate Health IT expertise.
- 2) Outline how the project or projects are related to the proposed Health IT SIN.
- 3) Submit summary of the final deliverables for the noted project or projects.
- 4) Offerors shall demonstrate that the tasks performed are of a similar complexity to the work solicited under this solicitation.
- 5) Provide the following information for each project submitted:
  - i) Project/Contract Name;
  - ii) Project Description;
  - iii) Dollar Amount of Contract;
  - iv) Project Duration, which includes the original estimated completion date and the actual completion date; and
  - v) Point of Contact and Telephone Number.

(v.) Project Experience for Authentication Products and Services (Homeland Security

Presidential Directive 12 (HSPD-12) Only): All offers must be in compliance with guidance in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-63, OMB Memorandum 04-04:

(A) SIN 132-60a: Offerings must include policy-compliant agency setup, testing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 1 Credential Assessment - Include Assessment Report
- 2) Successful completion of applicable interoperability testing - Include Test Report

(B) SIN 132-60b: Offerings must include policy-compliant agency setup, testing, identity proofing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 2 Credential Assessment - Include Assessment Report
- 2) Successful completion of applicable interoperability testing - Include Test Report

(C) SIN 132-60c: Offerings must include policy compliant ID proofing, Credential issuance, continued account management, revocation, and certificate validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 3 and 4 Credential Assessment - Include Assessment Report
- 2) Access Certificates for Electronic Services (ACES) Security Certification and Accreditation (C&A) as a condition of obtaining and retaining approval to operate as a Certification Authority (CA) under the ACES Certificate policy and the GSA ACES Program. – Include Authorization to Operate (ATO) letter.
- 3) Common criteria for other Certification Authorities cross-certified by the Federal Bridge

(D) SIN 132-60d: Offerings must be -

- 1) Listed on GSA's Federal Information Processing Standards (FIPS) 201 Approved Products List.
- 2) Crypto Modules must be FIPS 140-2 validated.

(E) SIN 132-60e: Offerings must include precursor services such as bulk load, testing, identity proofing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Also includes translation and validation services, and partial services such as 3rd-party identity proofing or secure hosting. Technical evaluation criteria are -

- 1) Demonstrated compliance with NIST SP 800-63, as applicable to the technologies being utilized by the offeror.

2) Compliance with published E-Authentication architecture, verified by a clearance letter from GSA's Office of Governmentwide Policy.

(F) SIN 132-60f: Technical evaluation criteria are -

1) Documented experience with deployment of policy-compliant Identity and Access Management (IAM) projects in Government agencies. This includes IAM technologies and standards, including Security Assertion Markup Language (SAML), Public Key Infrastructure (PKI) and the Web Services (WS)-Federation specification. Offerors should describe in detail their competencies when proposing under this SIN.

(5) Factor 5 - ORAL TECHNICAL EVALUATION: See SCP-FSS-004. Offerors proposing services under SIN 132-45A Penetration Testing, SIN 132-45B Incident Response, SIN 132-45C Cyber Hunt, and/or SIN 132-45D Risk and Vulnerability Assessments additional requirements are:

ORAL TECHNICAL EVALUATION OVERVIEW: Offeror shall participate in an oral technical evaluation that will be conducted by a Technical Evaluation Board (TEB). The oral technical evaluation will be held at the unclassified level and will be scheduled by the TEB. The oral technical evaluation will be used to assess the offeror's capability to successfully perform the services within the scope of each SIN as set forth in this solicitation.

Offeror/Contractor shall review Factor 5 Oral Technical Evaluation Criteria in SCP-FSS-004 section (d)(II)(5)(iii) to this solicitation for details on the knowledge areas to be assessed in the evaluation and the criteria for a 'Acceptable' or 'Unacceptable' rating under this factor.

(i) ORAL TECHNICAL EVALUATION CONSTRAINTS: The offeror shall identify up to five key personnel, by name and association with the offeror, who will field questions during the oral technical evaluation. After opening remarks by the TEB, the offeror will respond to a series of questions and scenarios in 40 minutes per SIN. The evaluation will be stopped precisely after 40 minutes. The total evaluation session is expected to up to three (3) hours, depending on the number of SINs the offeror is proposing. The TEB Chairperson will be responsible for ensuring the schedule is met and that all offerors are given the same opportunity to present and answer questions.

(ii) ORAL TECHNICAL EVALUATION SCHEDULING: The TEB will contact the offeror's authorized negotiator or the signatory of the SF 1449 via email to schedule the oral technical evaluation. Evaluation time slots will be assigned on a first-come-first-served basis. The Government reserves the right to reschedule any offeror's oral technical evaluation at its sole discretion. The oral technical evaluation will be held at facilities designated by the TEB. The exact location, seating capacity, and any other relevant information will be provided when the evaluations are scheduled. The government may make accommodations for vendors to participate in the oral evaluations virtually, if they are unable to participate in-person.

(iii) PROHIBITION OF ELECTRONIC RECORDING OF THE ORAL TECHNICAL EVALUATION: The offeror may not record or transmit any of the oral evaluation process. All offeror's electronic devices shall be removed from the room during the evaluation. The offeror is permitted to have a timer in the room during the evaluation, provided by the TEB.

(iv) RESUBMISSION RESTRICTIONS FOR UNSUCCESSFUL VENDORS UNDER THIS EVALUATION FACTOR: Offeror, whom the TEB has found to have not met the "acceptable" criteria under this evaluation factor shall be given one (1) opportunity to provide clarifications to the TEB. The offeror will have 24 hours from the time of the notice from the TEB to provide clarifications. Offerors, who have provided clarifications and still have not met the "acceptable" criteria, shall be rejected and shall be ineligible to

re-submit proposals to participate in the SIN for which they were rejected for a period of six (6) months following the date of rejection.

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**CI-FSS-152-S ADDITIONAL EVALUATION FACTORS FOR  
SUCCESSFUL FSS PROGRAM CONTRACTORS UNDER  
SCHEDULE 70 (OCT 2015)**

(a) The Government will consider award to an offeror who has been determined to be responsible, whose offer conforms to all solicitation requirements, who is determined technically acceptable, who has acceptable past performance, and whose prices are determined fair and reasonable.

(b) All technical evaluation factors will be reviewed, evaluated, and rated acceptable or unacceptable based on the criteria listed below. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any technical evaluation factor, by SIN, will result in an "unacceptable" rating overall for that SIN, and that SIN will be rejected. Offers determined unacceptable for all proposed SIN(s) will be rejected.

**I. TECHNICAL EVALUATION FACTORS:**

(1) Quality Control: See SCP-FSS-001-S

(2) Past Performance: See SCP-FSS-001-S

**II. PRICE PROPOSAL FACTOR:** See SCP-FSS-001-S and SCP-FSS-004.

**D-FSS-471 MARKING AND DOCUMENTATION REQUIREMENTS  
PER SHIPMENT (APR 1984)**

It shall be the responsibility of the Ordering Office to determine the full marking and documentation requirements necessary under the various methods of shipment authorized by the contract. Set forth below is the minimum information and documentation that will be required for shipment. In the event the Ordering Office fails to provide the essential information and documentation, the Contractor shall, within three days after receipt of order, contact the Ordering Office and advise them accordingly. The Contractor shall not proceed with any shipment requiring transshipment via U.S. Government facilities without the below stated prerequisites:

Direct Shipments. The Contractor shall mark all items ordered against this contract with indelible ink, paint or fluid, as follows:

- (1) Traffic Management or Transportation Officer at FINAL destination.
- (2) Ordering Supply Account Number.
- (3) Account number.
- (4) Delivery Order or Purchase Order Number.
- (5) National Stock Number, if applicable; or Contractor's item number.

(6) Box \_\_\_\_\_ of \_\_\_\_\_ Boxes.

(7) Nomenclature (brief description of items).

#### **D-FSS-477 TRANSSHIPMENTS (APR 1984)**

The Contractor shall complete TWO DD Forms 1387, Military Shipment Labels and, if applicable, four copies of DD Form 1387-2, Special Handling/Data Certification—used when shipping chemicals, dangerous cargo, etc. Two copies of the DD Form 1387 will be attached to EACH shipping container delivered to the port Transportation Officer for subsequent transshipment by the Government as otherwise provided for under the terms of this contract. These forms will be attached to one end and one side (NOT on the top or bottom) of the container. The Contractor will complete the bottom line of these forms, which pertains to the number of pieces, weight and cube of each piece, using U.S. weight and cubic measures. Weights will be rounded off to the nearest pound. (One kg = 2.2 U.S. pounds; one cubic meter = 35.3156 cubic feet.) In addition, if the cargo consists of chemicals, or is dangerous, one copy of the DD Form 1387 2 will be attached to the container, and three copies will be furnished to the Transportation Officer with the Bill of Lading. DANGEROUS CARGO WILL NOT BE INTERMINGLED WITH NONDANGEROUS CARGO IN THE SAME CONTAINER. Copies of the above forms, and preparation instructions will be obtained from the Ordering Office issuing the Delivery Order. Reproduced copies of the forms are acceptable. FAILURE TO INCLUDE DD FORMS 1387 (AND DD FORM 1387-2, IF APPLICABLE) ON EACH SHIPPING CONTAINER WILL RESULT IN REJECTION OF SHIPMENT BY THE PORT TRANSPORTATION OFFICER.

#### **F-FSS-230 DELIVERIES TO THE U.S. POSTAL SERVICE (JAN 1994)**

(a) Applicability. This clause applies to orders placed for the U.S. Postal Service (USPS) and accepted by the Contractor for the delivery of supplies to a USPS facility (consignee).

(b) Mode/Method of Transportation. Unless the Contracting Officer grants a waiver of this requirement, any shipment that meets the USPS requirements for mailability (i.e., 70 pounds or less, combined length and girth not more than 108 inches, etc.) delivery shall be accomplished via the use of the USPS. Other commercial services shall not be used, but this does not preclude the Contractor from making delivery by the use of the Contractor's own vehicles.

(c) Time of Delivery. Notwithstanding the required time for delivery to destination as may be specified elsewhere in this contract, if shipments under this clause are mailed not later than five (5) calendar days before the required delivery date, delivery shall be deemed to have been made timely.

#### **F-FSS-736-A EXPORT TRAFFIC RELEASE (OCT 1988)**

Supplies ordered by GSA for export will not be shipped by the Contractor until shipping instructions are received from GSA. To obtain shipping instructions, the Contractor shall forward completed copies of GSA Form 1611, Application for Shipping Instructions and Notice of Availability, to the GSA office designated on the purchase order at least 15 days prior to the anticipated shipping date. Copies of GSA Form 1611 will be furnished to the Contractor with the purchase order. Failure to comply with this requirement could result in nonacceptance of the material by authorities at the port of exportation. When supplies for export are ordered by other Government agencies the Contractor should obtain shipping instructions from the ordering agency.

#### **G-FSS-900-C CONTACT FOR CONTRACT ADMINISTRATION (JUL 2003)**

Offerors should complete paragraphs (a) and (b) if providing both domestic and overseas delivery. Complete paragraph (a) if providing domestic delivery only. Complete paragraph (b) if providing overseas delivery only.

The Contractor shall designate a person to serve as the contract administrator for the contract both domestically and overseas. The contract administrator is responsible for overall compliance with contract terms and conditions. The contract administrator is also the responsible official for issues concerning 552.238-74, Industrial Funding Fee and Sales Reporting (JUL 2003), including reviews of contractor records. The Contractor's designation of representatives to handle certain functions under this contract does not relieve the contract administrator of responsibility for contract compliance. Any changes to the designated individual must be provided to the Contracting Officer in writing, with the proposed effective date of the change

(a) Domestic:

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

ZIP CODE \_\_\_\_\_

TELEPHONE NO. (\_\_\_\_\_) \_\_\_\_\_ FAX NO. \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

(b) Overseas: Overseas contact points are mandatory for local assistance with the resolution of any delivery, performance, or quality complaint from customer agencies. (Also, see the requirement in I-FSS-594, Parts and Service.) At a minimum, a contact point must be furnished for each area in which deliveries are contemplated, e.g., Europe, South America, Far East, etc.

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

ZIP CODE \_\_\_\_\_

TELEPHONE NO. (\_\_\_\_\_) \_\_\_\_\_ FAX NO. \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

#### **G-FSS-906 VENDOR MANAGED INVENTORY (VMI) PROGRAM (MAS) (JAN 1999)**

(a) The term "Vendor Managed Inventory" describes a system in which the Contractor monitors and maintains specified inventory levels for selected items at designated stocking points. VMI enables the Contractor to plan production and shipping more efficiently. Stocking points benefit from reduced inventory but steady stock levels.

(b) Contractors that commercially provide a VMI-type system may enter into similar partnerships with customers under a Blanket Purchase Agreement.

#### **G-FSS-907 ORDER ACKNOWLEDGEMENT (APR 1984)**

Contractors shall acknowledge only those orders which state "Order Acknowledgement Required." These orders shall be acknowledged within 10 days after receipt. Such acknowledgement shall be sent to the activity placing the order and contain information pertinent to the order, including the anticipated delivery date.



**I-FSS-106 GUARANTEED MINIMUM (JUL 2003)**

The minimum that the Government agrees to order during the period of this contract is \$2,500. If the Contractor receives total orders for less than \$2,500 during the term of the contract, the Government will pay the difference between the amount ordered and \$2,500.

(a) Payment of any amount due under this clause shall be contingent upon the Contractor's timely submission of GSA Form 72A reports (see GSAR 552.238-74 "Industrial Funding Fee and Sales Reporting") during the period of the contract and receipt of the close-out sales report pursuant to GSAR 552.238-74.

(b) The guaranteed minimum applies only if the contract expires or contract cancellation is initiated by the Government. The guaranteed minimum does not apply if the contract is terminated for cause or if the contract is canceled at the request of the Contractor.

**I-FSS-108 CLAUSES FOR OVERSEAS COVERAGE (MAY 2000)**

The following clauses apply to overseas coverage.

52.214-34 Submission of Offers in the English Language  
52.214-35 Submission of Offers in U.S. Currency  
52.247-34 FOB Destination  
52.247-38 FOB Inland Carrier, Country of Exportation  
52.247-39 FOB Inland Point, Country of Importation  
C-FSS-412 Characteristics of Electric Current  
D-FSS-471 Marking and Documentation Requirements Per Shipment  
D-FSS-477 Transshipments  
F-FSS-202-F Delivery Prices  
I-FSS-314 Foreign Taxes and Duties  
I-FSS-594 Parts and Service

**I-FSS-109 ENGLISH LANGUAGE AND U.S. DOLLAR REQUIREMENTS (MAR 1998)**

(a) All documents produced by the Contractor to fulfill requirements of this contract including, but not limited to, Federal Supply Schedule catalogs and pricelists, must reflect all terms and conditions in the English language.

(b) U.S. dollar equivalency, if applicable, will be based on the rates published in the "Treasury Reporting Rates of Exchange" in effect as of the date of the agency's purchase order or in effect during the time period specified elsewhere in this contract.

**I-FSS-140-B URGENT REQUIREMENTS (JAN 1994)**

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering agency, agencies are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

**I-FSS-163 OPTION TO EXTEND THE TERM OF THE CONTRACT (EVERGREEN) (APR 2000)**

(a) The Government may require continued performance of this contract for an additional 5 year period when it is determined that exercising the option is advantageous to the Government considering price and other factors.. The option clause may not be exercised more than three times. When the option to extend the term of this contract is exercised the following conditions are applicable:

(1) It is determined that exercising the option is advantageous to the Government considering price and the other factors covered in (2 through 4 below).

(2) The Contractor's electronic catalog/pricelist has been received, approved, posted, and kept current on GSA *Advantage!*<sup>®</sup> in accordance with clause I-FSS-600, Contract Price Lists.

(3) Performance has been acceptable under the contract.

(4) Subcontracting goals have been reviewed and approved.

(b) The Contracting Officer may exercise the option by providing a written notice to the Contractor within 30 days, unless otherwise noted, prior to the expiration of the contract or option.

(c) When the Government exercises its option to extend the term of this contract, prices in effect at the time the option is exercised will remain in effect during the option period, unless an adjustment is made in accordance with another contract clause (e.g., Economic Price Adjustment Clause or Price Reduction Clause).

#### **I-FSS-314 FOREIGN TAXES AND DUTIES (DEC 1990)**

Prices offered must be net, delivered, f.o.b. to the destinations accepted by the Government.

(a) The offeror warrants that such prices do not include any tax, duty, customs fees, or other foreign Governmental costs, assessments, or similar charges from which the U.S. Government is exempt. The offeror further warrants that any applicable taxes duties, customs fees, other Government costs, assessments or similar charges from which the U.S. Government is not exempt are included in the prices quoted and that such prices are not subject to increases for any such charges applicable at the time of acceptance of this offer by the Government.

(b) Standard commercial export packaging, including containerization, if necessary, packaging, preservation, marking are included in the pricing offered and accepted by the Government.

#### **I-FSS-40 CONTRACTOR TEAM ARRANGEMENTS (JUL 2003)**

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with contract clause 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

#### **I-FSS-50 PERFORMANCE REPORTING REQUIREMENTS (FEB 1995)**

(a) This clause applies to all contracts estimated to exceed \$100,000.

(b) Unless notified otherwise in writing by the Contracting Officer, the Contractor may assume contract performance is satisfactory.

(c) If negative performance information is submitted by customer agencies, the Contracting Officer will notify the Contractor in writing and provide copies of any complaints received. The Contractor will have 30 calendar days from receipt of this notification to submit a rebuttal and/or a report of corrective

actions taken.

### **I-FSS-594 PARTS AND SERVICE (OCT 1988)**

(1) For equipment under items listed in the schedule of items or services on which offers are submitted, the offeror certifies by submission of this offer that parts and services (including the performing of warranty or guarantee service) are now available from dealers or distributors serving the areas of ultimate overseas destination or that such facilities will be established and will be maintained throughout the contract period. If a new servicing facility is to be established, the facility shall be established no later than the beginning of the contract period.

(2) Each Contractor shall be fully responsible for the services to be performed by the named servicing facilities, or by such facilities to be established, and fully guarantees performance of such services if the original service proves unsatisfactory.

(3) Offerors are requested to include in the pricelist, the names and addresses of all supply and service points maintained in the geographic area in which the Contractor will perform. Please indicate opposite each point whether or not a complete stock of repair parts for items offered is carried at that point, and whether or not mechanical service is available.

<b>GEOGRAPHIC AREA</b>	<b>ADDRESS OF SUPPLY AND SERVICE POINT</b>

It is desired to have available means for maintaining Government-owned items in satisfactory operating condition and to receive service at least as good as that extended to commercial customers.

### **I-FSS-597 GSA *ADVANTAGE!*<sup>®</sup> (OCT 2014)**

(a) The Contractor must participate in the *GSA Advantage!*<sup>®</sup> online shopping service. Information and instructions regarding contractor participation are contained in clause I-FSS-599, Electronic Commerce.

(b) The Contractor also should refer to contract clauses 552.238-71, Submission and Distribution of Authorized GSA Schedule Pricelists (which provides for submission of pricelists on a common-use electronic medium), I-FSS-600, Contract Pricelists (which provides information on electronic contract data), and 552.238-81, Modifications (Federal Supply Schedule), (which addresses electronic file updates).

Note: Regulation I-FSS-597  
Universal Product Codes (UPCs)

The current requirement is for vendors to submit at least one UPC per qualifying SIN. A listing of which SINs require mandatory UPC submission by going to the Vendor Support Center at [vsc.gsa.gov](http://vsc.gsa.gov) and following this path: Getting on Advantage >> Lookup Tables (under Documentation) >> Schedules SIN|MOL|Photo|UPC.

The direct link is: [https://vsc.gsa.gov/lookup/sin\\_mol.cfm](https://vsc.gsa.gov/lookup/sin_mol.cfm). The UPC will be a critical component of the upcoming Formatted Price List (FPL) portion of the EAS project. It will allow for easy product comparisons and validation.

UPCs are the most reliable way to group the same products together to facilitate comparisons of best value. In addition, it will improve the quality of product data and the general system experience for all users. Any calls to the CO/CS, from vendors about UPC issues, should be referred to the Vendor Support Center at (877) 495-4849. The VSC will provide the vendor guidance on issues for submitting UPCs, what to do if you do not have a UPC, exclusions, troubleshooting etc.

### **I-FSS-599 ELECTRONIC COMMERCE—FACNET (SEP 2006)**

#### **(a) General Background.**

The Federal Acquisition Streamlining Act (FASA) of 1994 establishes the Federal Acquisition Computer Network (FACNET) requiring the Government to evolve its acquisition process from one driven by paperwork into an expedited process based on electronic commerce/electronic data interchange (EC/EDI). EC/EDI means more than merely automating manual processes and eliminating paper transactions. It can and will help to move business processes (e.g., procurement, finance, logistics, etc.) into a fully electronic environment and fundamentally change the way organizations operate.

#### **(b) Trading Partners and Value-Added Networks (VAN's).**

Within the FACNET architecture, electronic documents (e.g., orders, invoices, etc.) are carried between the Federal Government's procuring office and contractors (now known as "trading partners"). These transactions are carried by commercial telecommunications companies called Value-Added Networks (VAN's).

EDI can be done using commercially available hardware, software, and telecommunications. The selection of a VAN is a business decision contractors must make. There are many different VAN's which provide a variety of electronic services and different pricing strategies. If your VAN only provides communications services, you may also need a software translation package.

#### **(c) Registration Instructions.**

DOD will require Contractors to register as trading partners to do business with the Government. This policy can be reviewed via the INTERNET at [http://www.defenselink.mil/releases/1999/b03011999\\_bt079-99.html](http://www.defenselink.mil/releases/1999/b03011999_bt079-99.html).

To do EDI with the Government, Contractors must register as a trading partner. Contractors will provide regular business information, banking information, and EDI capabilities to all agencies in this single registration. A central repository of all trading partners, called the Central Contractor Registration (CCR) <http://www.ccr.gov/>, has been developed. All Government procuring offices and other interested parties will have access to this central repository. The database is structured to identify the types of data elements which are public information and those which are confidential and not releasable.

To register, contractors must provide their Dun and Bradstreet (DUNS) number. The DUNS number is available by calling 1(800)333-0505. It is provided and maintained free of charge and only takes a few minutes to obtain. Contractors will need to provide their Tax Identification Number (TIN). The TIN is assigned by the Internal Revenue Service by calling 1(800)829-1040. Contractors will also be required to provide information about company bank or financial institution for electronic funds transfer (EFT).

Contractors may register through on-line at <http://www.ccr.gov/> or through their Value Added Network (VAN) using an American National Standards Institute (ANSI) ASC X12 838 transaction set, called a "Trading Partner Profile." A transaction set is a standard format for moving electronic data. VAN's will be able to assist contractors with registration.

(d) Implementation Conventions.

All EDI transactions must comply with the Federal Implementation Conventions (IC's). Many VAN's and software providers have already built the IC requirements into their products. If you need to see the IC's, they are available on a registry maintained by the National Institute of Standards and Technology (NIST). It is accessible via the INTERNET at <http://www.itl.nist.gov/lab/csl-pubs.htm>. IC's are available for common business documents such as Purchase Order, Price Sales Catalog, Invoice, Request for Quotes, etc.

(e) Additional Information.

GSA has additional information available for vendors who are interested in starting to use EC/EDI. Contact the Contracting Officer for a copy of the latest handbook. Several resources are available to vendors to assist in implementing EC/EDI; specific addresses are available in the handbook or from the Contracting Officer:

- (1) Electronic Commerce Resource Centers (ECRC's) are a network of U.S. Government-sponsored centers that provide EC/EDI training and support to the contractor community. They are found in over a dozen locations around the country.
- (2) Procurement Technical Assistance Centers (PTAC's) and Small Business Development Centers (SBDC's) provide management assistance to small business owners. Each state has several locations.
- (3) Most major US cities have an EDI user group of companies who meet periodically to share information on EDI-related subjects.

(f) GSA *Advantage!*<sup>®</sup>

(1) GSA *Advantage!*<sup>®</sup> will use this FACNET system to receive catalogs, invoices and text messages; and to send purchase orders, application advice, and functional acknowledgments. GSA *Advantage!*<sup>®</sup> enables customers to:

- (i) Perform database searches across all contracts by manufacturer; manufacturer's model/part number; vendor; and generic product categories.
- (ii) Generate their own EDI delivery orders to contractors, generate EDI delivery orders from the Federal Supply Service to contractors, or download files to create their own delivery orders.
- (iii) Use the Federal IMPAC VISA.

(2) GSA *Advantage!*<sup>®</sup> may be accessed via the GSA Home Page. The INTERNET address is: <http://www.gsa.gov>, or <http://www.fss.gsa.gov>.

### **I-FSS-60 PERFORMANCE INCENTIVES (APR 2000)**

(a) Performance incentives may be agreed upon between the contractor and the ordering office on individual orders or Blanket Purchase Agreements under this contract in accordance with this clause.

(b) The ordering office must establish a maximum performance incentive price for these services and/or total solutions, on individual orders or Blanket Purchase Agreements.

(c) Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering offices shall consider establishing incentives where performance is critical to the agency's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449 (10-95) (BACK)**

### **I-FSS-600 CONTRACT PRICE LISTS (OCT 2016)**

(a) Electronic Contract Data.

(1) At the time of award, the Contractor will be provided instructions for submitting electronic contract data in a prescribed electronic format as required by clause 552.238-71, *Submission and Distribution of Authorized FSS Schedule Price Lists*.

(2) The Contractor will have a choice to transmit its file submissions electronically through Electronic Data Interchange (EDI) in accordance with the Federal Implementation Convention (IC) or use the application made available at the time of award. The Contractor's electronic files must be complete; correct; readable; virus-free; and contain only those supplies and services, prices, and terms and conditions that were accepted by the Government. They will be added to GSA's electronic ordering system known as *GSA Advantage!*<sup>®</sup>, a menu-driven database system that provides on-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic order. The Contractor's electronic files must be received no later than 30 days after award. Contractors should refer to clause I-FSS-597, *GSA Advantage!*<sup>®</sup> for further information.

(3) Further details on EDI, ICs, and *GSA Advantage!*<sup>®</sup> can be found in clause I-FSS-599, *Electronic Commerce*.

(4) The Contractor is encouraged to place the GSA identifier (logo) on their web site for those supplies or services covered by this contract. The logo can link to the contractor's Federal Supply Schedule price list. The identifier URL is located at <http://www.gsa.gov/logos>. All resultant "web price lists" shown on the contractor's web site must be in accordance with section (b)(3)(ii) of this clause and nothing other than what was accepted /awarded by the Government) may be included. If the contractor elects to use contract identifiers on its website (either logos or contact number) the website must clearly distinguish between those items awarded on the contract and any other items offered by the contractor on an open market basis.

(5) The contractor is responsible for keeping all electronic catalogs data up to date; e.g., prices, product deletions and replacements, etc.

(b) Federal Supply Schedule Price Lists.

(1) The Contractor must also prepare and distribute a Federal Supply Schedule Price List as required by clause 552.238-71, *Submission and Distribution of Authorized FSS Schedule Price Lists*. This must be done as set forth in this paragraph (b).

(2) The Contractor must prepare a Federal Supply Schedule Price List by either:

(i) Using the commercial catalog, price list, schedule, or other document as accepted by the Government, showing accepted discounts, and obliterating all items, terms, and conditions not accepted by the Government by lining out those items or by a stamp across the face of the item stating "NOT UNDER CONTRACT" or "EXCLUDED"; or

(ii) Composing a price list in which only those items, terms, and conditions accepted by the Government are included, and which contain only net prices, based upon the commercial price list less discounts accepted by the Government. In this instance, the Contractor must

show on the cover page the notation "Prices Shown Herein are Net (discount deducted)".

(3) The cover page of the Federal Supply Schedule Price List must include the following information prepared in the format set forth in this subparagraph (b)(3):

(i) GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Authorized Federal Supply Schedule Price List

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA *Advantage!*®, a menu-driven database system. The INTERNET address GSA *Advantage!*® is: GSAAdvantage.gov.

Schedule Title

FSC Group, Part, and Section or Standard Industrial Group (as applicable)

FSC Class(es)/Product code(s) and/or Service Codes (as applicable)

Contract number

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at [fss.gsa.gov](http://fss.gsa.gov).

Contract period.

Contractor's name, address, and phone number (include toll-free WATS number and FAX number, if applicable)

Contractor's internet address/web site where schedule information can be found (as applicable). Contract administration source (if different from preceding entry).

Business size.

(ii) CUSTOMER INFORMATION: The following information should be placed under this heading in consecutively numbered paragraphs in the sequence set forth below. If this information is placed in another part of the Federal Supply Schedule Price List, a table of contents must be shown on the cover page that refers to the exact location of the information.

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate "Not applicable" for this item.

2. Maximum order.

3. Minimum order.

4. Geographic coverage (delivery area).

5. Point(s) of production (city, county, and State or foreign country).

6. Discount from list prices or statement of net price.

7. Quantity discounts.
8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."
- 9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.
- 9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.
10. Foreign items (list items by country of origin).
- 11a. Time of delivery. (Contractor insert number of days.)
- 11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.
- 11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.
- 11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to effect a faster delivery.
12. F.O.B. point(s).
- 13a. Ordering address(es).
- 13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.
14. Payment address(es).
15. Warranty provision.
16. Export packing charges, if applicable.
17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).
18. Terms and conditions of rental, maintenance, and repair (if applicable).
19. Terms and conditions of installation (if applicable).
20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).
- 20a. Terms and conditions for any other services (if applicable).
21. List of service and distribution points (if applicable).



22. List of participating dealers (if applicable).
23. Preventive maintenance (if applicable).
- 24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).
- 24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at: [www.Section508.gov/](http://www.Section508.gov/).
25. Data Universal Number System (DUNS) number.
26. Notification regarding registration in System for Award Management (SAM) database.

(4) Amendments to Federal Supply Schedule Price Lists must include on the cover page the same information as the basic document plus the title "Supplement No. (sequentially numbered)" and the effective date(s) of such supplements.

(5) Accuracy of information and computation of prices is the responsibility of the Contractor. NOTE: The obliteration discussed in subdivision (b)(2)(i) of this clause must be accomplished prior to the printing and distribution of the Federal Supply Schedule Price Lists.

(6) Inclusion of incorrect information will cause the Contractor to resubmit/correct and redistribute the Federal Supply Schedule Price List, and may constitute sufficient cause for Cancellation, applying the provisions of 52.212-4 , *Contract Terms and Conditions* (paragraph (m), Termination for Cause), and application of any other remedies as provided by law—including monetary recovery.

(7) In addition, one copy of the Federal Supply Schedule Price List must be submitted to the National Customer Service Center at: Email: [schedules.infocenter@gsa.gov](mailto:schedules.infocenter@gsa.gov)  
Telephone: 1 (800) 488-3111

Note: Regulation I-FSS-600

In lieu of paragraph (b)(7) of I-FSS-600, one copy of the Federal Supply Schedule Price List must be submitted electronically to:  
[NCSCCustomer.Service@gsa.gov](mailto:NCSCCustomer.Service@gsa.gov)

In the event that vendor elect to submit an electronic copy, then send Federal Supply Schedule Price List to the following correct physical address:

U.S. General Services Administration  
The Heartland Region, Region 6  
2300 Main St.  
Kansas City, MO 64108

### **I-FSS-639 CONTRACT SALES CRITERIA (MAR 2002)**

- (a) A contract will not be awarded unless anticipated sales are expected to exceed \$25,000 within the first 24 months following contract award, and are expected to exceed \$25,000 in sales each 12-month

period thereafter.

(b) The Government may cancel the contract in accordance with clause 552.238-73, Cancellation, unless reported sales are at the levels specified in paragraph (a) above.

#### **I-FSS-644 DEALERS AND SUPPLIERS (OCT 1988)**

When requested by the Contracting Officer, if other than the manufacturer, the offeror must submit prior to award of a contract, either (1) a letter of commitment from the manufacturer which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period, OR (2) evidence that the offeror will have an uninterrupted source of supply from which to satisfy the Government's requirements for the contract period.

#### **I-FSS-646 BLANKET PURCHASE AGREEMENTS (MAY 2000)**

Blanket Purchase Agreements (BPA's) can reduce costs and save time because individual orders and invoices are not required for each procurement but can instead be documented on a consolidated basis. The Contractor agrees to enter into BPA's with ordering activities provided that:

- (a) The period of time covered by such agreements shall not exceed the period of the contract including option year period(s);
- (b) Orders placed under such agreements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract; and
- (c) BPAs may be established to obtain the maximum discount (lowest net price) available in those schedule contracts containing volume or quantity discount arrangements.

#### **I-FSS-680 DISSEMINATION OF INFORMATION BY CONTRACTOR (APR 1984)**

The Government will provide the Contractor with a single copy of the resulting Federal Supply Schedule. However, it is the responsibility of the Contractor to furnish all sales outlets authorized to participate in the performance of the contract with the terms, conditions, pricing schedule, and other appropriate information.

#### **I-FSS-969 ECONOMIC PRICE ADJUSTMENT—FSS MULTIPLE AWARD SCHEDULE (OCT 2014)**

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

- (a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.
- (b) There are two types of economic price adjustments (EPAs) possible under the Multiple Award Schedules (MAS) program for contracts not based on commercial catalogs or price lists as described below. Price adjustments may be effective on or after the first 12 months of the contract period on the following basis:
  - (1) Adjustments based on escalation rates negotiated prior to contract award. Normally, when escalation rates are negotiated, they result in a fixed price for the term of the contract. No separate contract modification will be provided when increases are based on negotiated escalation rates. Price increases will be effective on the 12-month anniversary date of the contract effective date, subject to paragraph (f), below.

(2) Adjustments based on an agreed-upon market indicator prior to award. The market indicator, as used in this clause, means the originally released public index, public survey or other public, based market indicator. The market indicator shall be the originally released index, survey or market indicator, not seasonally adjusted, published by the [to be negotiated], and made available at [to be identified]. Any price adjustment shall be based on the percentage change in the designated (i.e. indicator identification and date) market indicator from the initial award to the latest available as of the anniversary date of the contract effective date, subject to paragraph (e), below. If the market indicator is discontinued or deemed no longer available or reliable by the Government, the Government and the Contractor will mutually agree to a substitute. The contract modification reflecting the price adjustment will be effective upon approval by the Contracting Officer, subject to paragraph (g), below. The adjusted prices shall apply to orders issued to the Contractor on or after the effective date of the contract modification.

(c) Notwithstanding the two economic price adjustments discussed above, the Government recognizes the potential impact of unforeseeable major changes in market conditions. For those cases where such changes do occur, the contracting officer will review requests to make adjustments, subject to the Government's examination of industry-wide market conditions and the conditions in paragraph (d) and (e), below. If adjustments are accepted, the contract will be modified accordingly. The determination of whether or not extra-ordinary circumstances exist rests with the contracting officer. The determination of an appropriate mechanism of adjustment will be subject to negotiations.

(d) Conditions of Price change requests under paragraphs b(2) and c above.:

(1) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of subparagraph (b)).

(2) Increases are requested before the last 60 days of the contract period, including options.

(3) At least 30 days elapse between requested increases.

(4) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed 10 percent (10%) of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(e) The following material shall be submitted with request for a price increase under paragraphs b(2) and c above:

(1) A copy of the index, survey or pricing indicator showing the price increase and the effective date.

(2) Commercial Sales Practice format, per contract clause 52.215-21 Alternate IV, demonstrating the relationship of the Contractor's commercial pricing practice to the adjusted pricing proposed or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Any other documentation requested by the Contracting Officer to support the reasonableness of the price increase.

(f) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), (d), and (e) of this clause are satisfied;

(2) Negotiate more favorable prices when the total increase requested is not supported; or,

(3) Decline the price increase when the request is not supported. The Contractor may remove the

item(s) from contract involved pursuant to the Cancellation Clause of this contract.

(g) Effective Date of Increases: No price increase shall be effective until the Government receives the electronic file updates pursuant to GSAR 552.238-81, Modifications (Federal Supply Schedule).

(h) All MAS contracts remain subject to contract clauses GSAR 552.238-75, "Price Reductions"; and 552.215-72, "Price Adjustment -- Failure to Provide Accurate Information." In the event the application of an economic price adjustment results in a price less favorable to the Government than the price relationship established during negotiation between the MAS price and the price to the designated customer, the Government will maintain the price relationship to the designated customer.

Note: Regulation I-FSS-969

THIS REGULATION FOR ECONOMIC PRICE ADJUSTMENT (EPA) IS FOR PRODUCTS AND /OR SERVICES THAT WERE AWARDED, BUT NOT BASED ON A COMMERCIAL CATALOG PRICE.



## Town of Miami Lakes Memorandum

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager and Raul Gastesi, Town Attorney  
**Subject:** Transfer of Special Taxing Districts  
**Date:** 9/5/2017

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### Recommendation:

It is recommended that the Town Council approve the transfer of five Special Taxing Districts, currently managed by Miami Dade County Public Works and Waste Management Special Taxing Districts, to the Town of Miami Lakes.

### Background:

In 2014, Town residents who were living in districts with special taxes expressed interest in localizing these services with the goal of receiving hometown service. At the April 14, 2014 council meeting, a motion was made to negotiate a transfer of special taxing districts to be managed by the Town of Miami Lakes. The entire council was in favor, and the motion was approved.

On November 8, 2016, Miami-Dade County voters approved a Charter Amendment under Ordinance No. 16-14 authorizing a municipality to act as the governing body for special taxing districts located entirely within their municipalities. Miami-Dade County, FL, Code, Chapter 18, art. I, §18-3.1. Subsequently, in March 2017, a workshop was held in collaboration with Miami Dade County. The Town of Miami Lakes presented an option to the residents to transfer the County Special Taxing Districts or create new special taxing districts to be managed by the Town in order to better serve our residents. The workshop explained the different types of districts, the process of the transfer and questions related to the process.

Currently, Miami Dade County offers special assessments for security guard services, guard houses and lake maintenance to six taxing districts within the Town of Miami Lakes. The taxing districts are self-sustaining and no general revenue funds are going to be utilized. Residents who had originally been in favor of creating these special taxing districts, now have presented a petition to transfer to the Town the following:

District Name	District Type	Created by	Number of Parcels	Budget FY17- 18
Loch Lomond	Security Guards	1/19/1982	187	\$592,366
Royal Oaks East	Security Guards	07/25/2000	529	\$523,006

<b>Royal Oaks Section I</b>	Security Guards	03/18/2008	585	\$475,654
<b>Lake Hilda</b>	Lake Maintenance	06/30/2015	109	\$15,300
<b>Lake Patricia</b>	Lake Maintenance	07/30/2015	73	\$16,000

Per County Code, to move forward with this initiative, the Town Council must approve the transfer of these special taxing districts by passing a resolution. Upon passing the resolution, a public hearing will be held by the Board of County Commissioners (BCC) to consider creating an ordinance. If approved by the BCC, an election will be conducted via mail-in ballot to those within the district boundaries. A majority vote of returned ballots is needed to ratify each district's transfer.

#### **ATTACHMENTS:**

Description

Resolution

Interlocal Agreement Loch Lomand

Interlocal Agreement Royal Oaks East

Interlocal Agreement Royal Oaks Section I

Interlocal Agreement Lake Hilda

Interlocal Agreement Lake Patricia

Loch Lomand Map

Royal Oaks East Map

Royal Oaks Section I

Lake Hilda Map

Lake Patricia Map

STD Transfer Timeline

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES REQUESTING THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS TO TRANSFER CONTROL OF THE LOCH LOMOND SECURITY GUARD, ROYAL OAKS EAST SECURITY GUARD, ROYAL OAKS SECTION I, LAKE HILDA MULTIPURPOSE MAINTANANCE, LAKE PATRICIA MULTIPURPOSE MAINTANANCE SPECIAL TAXING DISTRICTS LOCATED ENTIRELY WITHIN THE TOWN; SUBJECT TO A MAJORITY VOTE OF THE QUALIFIED ELECTORS OF THE RESPECTIVE SPECIAL TAXING DISTRICTS, AND DESIGNATING THE TOWN COUNCIL AS THE GOVERNING BODY IN ACCORDANCE WITH SECTION 18-3.1 OF THE MIAMI DADE COUNTY CODE; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Miami-Dade County (the “County”) approved the creation of the Loch Lomond Security Guard Special Taxing District in County Ordinance No. 82-2; and

**WHEREAS**, the County approved a second special taxing district, Royal Oaks East Security Guard Special Taxing District in County Ordinance No. 00-102; and

**WHEREAS**, the Town of Miami Lakes (the “Town”) and County approved a third special taxing district, Royal Oaks Section I Security Guard Special Taxing District in County Ordinance No. 08-38 and Town Resolution No. 07-528Z; and

**WHEREAS**, the Town and County approved a forth special taxing district, Lake Hilda Special Multipurpose Maintenance Taxing District in County Ordinance No. 15-72 and Town Resolution No. 15-1301; and

**WHEREAS**, the Town and County approved a fifth special taxing district, Lake Patricia Multipurpose Maintenance Special Taxing District in County Ordinance No. 15-73 and Town Resolution No. 14-1265; and

**WHEREAS**, on February 2, 2016, the County Approved Ordinance No. 16-14, codified as Section 18-3.1 of the Miami Dade County Code, providing that subject to Charter referendum approval at the November 8, 2016, election, municipalities would be authorized to act as the governing body for special taxing districts located entirely within their municipal boundaries; and

**WHEREAS**, on November 8, 2016, the electorate approved a Charter Amendment validating and giving effect to Miami-Dade County Ordinance No. 61-14; and

**WHEREAS**, Loch Lomond Security Guard; Royal Oaks East Security Guard; Royal Oks Section I; Lake Hilda Multipurpose Maintenance; Lake Patricia Multipurpose Maintenance are located entirely within the Town of Miami Lakes and County Ordinance No. 16-14 provides, in part, that special taxing districts located entirely within municipal boundaries may designate the municipal governing body as the governing body of the special taxing district, subject to a majority vote of the qualified electors of the respective districts; and

**WHEREAS**, the Town Council hereby request the transfer of control of the Loch Lomond Security Guard; Royal Oaks East Security Guard; Royal Oks Section I; Lake Hilda Multipurpose Maintenance; Lake Patricia Multipurpose Maintenance Special Taxing District from Miami-Dade County to the Town of Miami Lakes and, subject to a majority vote of the qualified electors of the respective districts, designate the Mayor and City Commission as the governing body of Loch Lomond Security Guard; Royal Oaks East Security Guard; Royal Oks Section I; Lake Hilda Multipurpose Maintenance; Lake Patricia Multipurpose Maintenance.



**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE  
TOWN OF MIAMI LAKES, FLORIDA,**

**Section 1 Recitals.** The recitals are true and correct and are adopted by reference and incorporated as if fully set forth in this Section.

**Section 2. Approval of Special Taxing District Transfers.** The Town Council hereby request the transfer of control of , Loch Lomond Security Guard; Royal Oaks East Security Guard; Royal Oks Section I; Lake Hilda Multipurpose Maintenance; Lake Patricia Multipurpose Maintenance Special Taxing Districts from Miami-Dade County to the Town of Miami Lakes and, subject to a majority vote of the qualified electors of the respective districts, designate the Town Council as the governing body of , Loch Lomond Security Guard; Royal Oaks East Security Guard; Royal Oks Section I; Lake Hilda Multipurpose Maintenance; Lake Patricia Multipurpose Maintenance.

**Section 3. Authorization of Town Officials.** The Town Council hereby authorizes the Town Manager and or his designee, and the Town Attorney to execute the inter local agreements, substantially in the same form as attached, and to allow the Town Manager and or his designee, and the Town Attorney the authority and ability to modify the agreement as needed and in the best interest of the Town and to do all things necessary to carry out the intent of this Resolution.

**Section 4. Authorization of the Town Clerk.** The Town Council, hereby direct the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners.

**Section 5. Effective Date.** This Resolution shall be effective upon passing.

\*\*\*\*\* THIS PORTION HAS BEEN LEFT PURPOSEFULLY BLANK \*\*\*\*\*

**PASSED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2017.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

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Manny Cid  
MAYOR

Attest:

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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

**TRANSFER OF THE LOCH LOMOND SECURITY GUARD SPECIAL TAXING  
DISTRICT FROM MIAMI-DADE COUNTY TO THE TOWN OF MIAMI LAKES**

THIS AGREEMENT FOR TRANSFER OF THE LOCH LOMOND SECURITY GUARD SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **TOWN OF MIAMI LAKES, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**Town**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the “**County**”).

**WITNESSETH**

**WHEREAS**, the Town has requested transfer of the ownership of the assets and control of the Loch Lomond Security Guard Special Taxing District (“**Special Taxing District**”) from the County to the Town such that the Town Commission will become the governing body responsible for the Special Taxing District; and

**WHEREAS**, the Town and the County are mutually desirous of transferring the Special Taxing District to the Town; and

**WHEREAS**, the Town shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

**NOW, THEREFORE**, in consideration of the covenants herein provided, the Town of Miami Lakes and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer (“**Effective Date**”).
3. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District (“**Transfer Date**”). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.
4. On October 1, 2018, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the Town will be exclusively responsible for the Special Taxing District (“**Completion Date**”).
5. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date (“**Transition Period**”), but any action requiring board approval will be presented to the Town Commission.

6. Prior to the Transfer Date, the Special Taxing Districts Division of the County shall provide to the Town a preliminary financial reconciliation of all known liabilities for the Special Taxing District.
7. Beginning on the Transfer Date, the Town shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
8. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the Town to provide assistance with operations questions.
9. The Town shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2018. If the Town intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the Town shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
10. The Town shall arrange for transfer of the Special Taxing District's utility accounts into the Town's name, to take effect no later than September 1, 2018. Such utilities include, but are not limited to, Florida Power and Light and Miami-Dade County Water and Sewer.
11. Prior to the Completion Date, the Town shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for the following services: security guards, extermination, janitorial, gate repair, and building repair. The Town's contractors shall commence service on October 1, 2018.
12. Prior to the Completion Date, the Town shall establish its own protocols and policies for the issuance and use of the Special Taxing District's access devices, and the County shall transfer to the Town the Special Taxing District's entire inventory of unissued access devices.
13. Beginning on the Completion Date, the Town's Commission shall be responsible for the continuous operation, maintenance, repair, and replacement, when necessary, of the Special Taxing District's improvements and systems, including, but not limited to, the guardhouse, guardhouse air conditioning, plumbing and electrical, security cameras, and guard gate.
14. Beginning on the Completion Date, the Town shall be responsible for payment of all of the Special Taxing District's expenses.
15. The County shall transfer to the Town, effective on the Completion Date, any active, transferrable warranties on the Special Taxing District's improvements or equipment.

16. Within thirty (30) days of the Completion Date, the County shall provide to the Town a final financial reconciliation of all known liabilities for the Special Taxing District. Any omission from the final reconciliation shall not constitute a waiver by either the County or the Town for payment to or from the Special Taxing District's account.
17. Within sixty (60) days of the Completion Date, the County shall remit to the Town any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the Town for any deficit in the Special Taxing District's account.
18. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the Town is encouraged to pay the Living Wage.
19. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the Town does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the Town's failure to provide services or maintain, repair, replace, or operate the Improvements.
20. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the Town and the County and shall remain in full force and effect and be binding on the Town, and any permitted successors or assigns.
21. In the event that the Town requests any third party to assume any of the responsibilities hereunder, the Town acknowledges that such assumption shall not relieve the Town from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
22. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
23. The language agreed to herein expresses the mutual intent and agreement of the County and the Town, and shall not, as a matter of judicial construction, be construed more severely against one of the parties from the other.

Town: Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

County : Miami-Dade County  
Stephen P. Clark Center  
111 Northwest First Street  
Miami, Florida 33128

**IN WITNESS WHEREOF**, the Town of Miami Lakes has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

ATTEST: **TOWN OF MIAMI LAKES, a municipal corporation**

By: \_\_\_\_\_  
Gina M. Inganzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Raul Gastesi, Town Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Mayor or Mayor's  
Designee

\_\_\_\_\_  
Date

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Date

**TRANSFER OF THE ROYAL OAKS EAST SECURITY GUARD SPECIAL TAXING  
DISTRICT FROM MIAMI-DADE COUNTY TO THE TOWN OF MIAMI LAKES**

THIS AGREEMENT FOR TRANSFER OF THE ROYAL OAKS EAST SECURITY GUARD SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **TOWN OF MIAMI LAKES, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**Town**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the “**County**”).

**WITNESSETH**

**WHEREAS**, the Town has requested transfer of the ownership of the assets and control of the Royal Oaks East Security Guard Special Taxing District (“**Special Taxing District**”) from the County to the Town such that the Town Commission will become the governing body responsible for the Special Taxing District; and

**WHEREAS**, the Town and the County are mutually desirous of transferring the Special Taxing District to the Town; and

**WHEREAS**, the Town shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

**NOW, THEREFORE**, in consideration of the covenants herein provided, the Town of Miami Lakes and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer (“**Effective Date**”).
3. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District (“**Transfer Date**”). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.
4. On October 1, 2018, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the Town will be exclusively responsible for the Special Taxing District (“**Completion Date**”).
5. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date (“**Transition Period**”), but any action requiring board approval will be presented to the Town Commission.



6. Prior to the Transfer Date, the Special Taxing Districts Division of the County shall provide to the Town a preliminary financial reconciliation of all known liabilities for the Special Taxing District.
7. Beginning on the Transfer Date, the Town shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
8. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the Town to provide assistance with operations questions.
9. The Town shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2018. If the Town intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the Town shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
10. The Town shall arrange for transfer of the Special Taxing District's utility accounts into the Town's name, to take effect no later than September 1, 2018. Such utilities include, but are not limited to, Florida Power and Light and Miami-Dade County Water and Sewer.
11. Prior to the Completion Date, the Town shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for the following services: security guards, extermination, janitorial, gate repair, and building repair. The Town's contractors shall commence service on October 1, 2018.
12. Prior to the Completion Date, the Town shall establish its own protocols and policies for the issuance and use of the Special Taxing District's access devices, and the County shall transfer to the Town the Special Taxing District's entire inventory of unissued access devices.
13. Beginning on the Completion Date, the Town's Commission shall be responsible for the continuous operation, maintenance, repair, and replacement, when necessary, of the Special Taxing District's improvements and systems, including, but not limited to, the guardhouse, guardhouse air conditioning, plumbing and electrical, security cameras, and guard gate.
14. Beginning on the Completion Date, the Town shall be responsible for payment of all of the Special Taxing District's expenses.
15. The County shall transfer to the Town, effective on the Completion Date, any active, transferrable warranties on the Special Taxing District's improvements or equipment.

16. Within thirty (30) days of the Completion Date, the County shall provide to the Town a final financial reconciliation of all known liabilities for the Special Taxing District. Any omission from the final reconciliation shall not constitute a waiver by either the County or the Town for payment to or from the Special Taxing District's account.
17. Within sixty (60) days of the Completion Date, the County shall remit to the Town any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the Town for any deficit in the Special Taxing District's account.
18. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the Town is encouraged to pay the Living Wage.
19. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the Town does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the Town's failure to provide services or maintain, repair, replace, or operate the Improvements.
20. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the Town and the County and shall remain in full force and effect and be binding on the Town, and any permitted successors or assigns.
21. In the event that the Town requests any third party to assume any of the responsibilities hereunder, the Town acknowledges that such assumption shall not relieve the Town from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
22. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
23. The language agreed to herein expresses the mutual intent and agreement of the County and the Town, and shall not, as a matter of judicial construction, be construed more severely against one of the parties from the other.

Town: Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

County : Miami-Dade County  
Stephen P. Clark Center  
111 Northwest First Street  
Miami, Florida 33128

**IN WITNESS WHEREOF**, the Town of Miami Lakes has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

ATTEST: **TOWN OF MIAMI LAKES, a municipal corporation**

By: \_\_\_\_\_  
Gina M. Inganzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Raul Gastesi, Town Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Mayor or Mayor's  
Designee

\_\_\_\_\_ Date

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_ Date

**TRANSFER OF THE ROYAL OAKS SECTION I SECURITY GUARD SPECIAL  
TAXING DISTRICT FROM MIAMI-DADE COUNTY TO THE TOWN OF MIAMI  
LAKES**

THIS AGREEMENT FOR TRANSFER OF THE ROYAL OAKS SECTION I SECURITY GUARD SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **TOWN OF MIAMI LAKES, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**Town**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the “**County**”).

**WITNESSETH**

**WHEREAS**, the Town has requested transfer of the ownership of the assets and control of the Royal Oaks Section I Security Guard Special Taxing District (“**Special Taxing District**”) from the County to the Town such that the Town Commission will become the governing body responsible for the Special Taxing District; and

**WHEREAS**, the Town and the County are mutually desirous of transferring the Special Taxing District to the Town; and

**WHEREAS**, the Town shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

**NOW, THEREFORE**, in consideration of the covenants herein provided, the Town of Miami Lakes and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer (“**Effective Date**”).
3. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District (“**Transfer Date**”). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.
4. On October 1, 2018, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the Town will be exclusively responsible for the Special Taxing District (“**Completion Date**”).

5. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date (“**Transition Period**”), but any action requiring board approval will be presented to the Town Commission.
6. Prior to the Transfer Date, the Special Taxing Districts Division of the County shall provide to the Town a preliminary financial reconciliation of all known liabilities for the Special Taxing District.
7. Beginning on the Transfer Date, the Town shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
8. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the Town to provide assistance with operations questions.
9. The Town shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2018. If the Town intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the Town shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
10. The Town shall arrange for transfer of the Special Taxing District’s utility accounts into the Town’s name, to take effect no later than September 1, 2018. Such utilities include, but are not limited to, Florida Power and Light and Miami-Dade County Water and Sewer.
11. Prior to the Completion Date, the Town shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for the following services: security guards, extermination, janitorial, gate repair, and building repair. The Town’s contractors shall commence service on October 1, 2018.
12. Prior to the Completion Date, the Town shall establish its own protocols and policies for the issuance and use of the Special Taxing District’s access devices, and the County shall transfer to the Town the Special Taxing District’s entire inventory of unissued access devices.
13. Beginning on the Completion Date, the Town’s Commission shall be responsible for the continuous operation, maintenance, repair, and replacement, when necessary, of the Special Taxing District’s improvements and systems, including, but not limited to, the guardhouse, guardhouse air conditioning, plumbing and electrical, security cameras, and guard gate.
14. Beginning on the Completion Date, the Town shall be responsible for payment of all of the Special Taxing District’s expenses.

15. The County shall transfer to the Town, effective on the Completion Date, any active, transferrable warranties on the Special Taxing District's improvements or equipment.
16. Within thirty (30) days of the Completion Date, the County shall provide to the Town a final financial reconciliation of all known liabilities for the Special Taxing District. Any omission from the final reconciliation shall not constitute a waiver by either the County or the Town for payment to or from the Special Taxing District's account.
17. Within sixty (60) days of the Completion Date, the County shall remit to the Town any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the Town for any deficit in the Special Taxing District's account.
18. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the Town is encouraged to pay the Living Wage.
19. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the Town does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the Town's failure to provide services or maintain, repair, replace, or operate the Improvements.
20. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the Town and the County and shall remain in full force and effect and be binding on the Town, and any permitted successors or assigns.
21. In the event that the Town requests any third party to assume any of the responsibilities hereunder, the Town acknowledges that such assumption shall not relieve the Town from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
22. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
23. The language agreed to herein expresses the mutual intent and agreement of the County and the Town, and shall not, as a matter of judicial construction, be construed more severely against one of the parties from the other.

Town: Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

County : Miami-Dade County  
Stephen P. Clark Center  
111 Northwest First Street  
Miami, Florida 33128

**IN WITNESS WHEREOF**, the Town of Miami Lakes has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

ATTEST: **TOWN OF MIAMI LAKES, a municipal corporation**

By: \_\_\_\_\_  
Gina M. Inguanzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Raul Gastesi, Town Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Mayor or Mayor's Designee

\_\_\_\_\_ Date

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_ Date

**TRANSFER OF THE LAKE HILDA MULTIPURPOSE SPECIAL TAXING DISTRICT  
FROM MIAMI-DADE COUNTY TO THE TOWN OF MIAMI LAKES**

THIS AGREEMENT FOR TRANSFER OF THE LAKE HILDA MULTIPURPOSE SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **TOWN OF MIAMI LAKES, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**Town**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the “**County**”).

**WITNESSETH**

**WHEREAS**, the Town has requested transfer of the ownership of the assets and control of the Lake Hilda Multipurpose Special Taxing District (“**Special Taxing District**”) from the County to the Town such that the Town Commission will become the governing body responsible for the Special Taxing District; and

**WHEREAS**, the Town and the County are mutually desirous of transferring the Special Taxing District to the Town; and

**WHEREAS**, the Town shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

**NOW, THEREFORE**, in consideration of the covenants herein provided, the Town of Miami Lakes and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer (“**Effective Date**”).
3. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District (“**Transfer Date**”). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.
4. On October 1, 2018, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the Town will be exclusively responsible for the Special Taxing District (“**Completion Date**”).
5. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date (“**Transition Period**”), but any action requiring board approval will be presented to the Town Commission.



6. Prior to the Transfer Date, the Special Taxing Districts Division of the County shall provide to the Town a preliminary financial reconciliation of all known liabilities for the Special Taxing District.
7. Beginning on the Transfer Date, the Town shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
8. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the Town to provide assistance with operations questions.
9. The Town shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2018. If the Town intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the Town shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
10. The Town shall arrange for transfer of the Special Taxing District's utility accounts into the Town's name, to take effect no later than September 1, 2018. Such utilities include, but are not limited to, Florida Power and Light and Miami-Dade County Water and Sewer.
11. Prior to the Completion Date, the Town shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for lake maintenance. The Town's contractors shall commence service on October 1, 2018.
12. Beginning on the Completion Date, the Town's Commission shall be responsible for the continuous operation, and maintenance of the Special Taxing District's improvements and systems, if any.
13. Beginning on the Completion Date, the Town shall be responsible for payment of all of the Special Taxing District's expenses.
14. The County shall transfer to the Town, effective on the Completion Date, any active, transferrable warranties on the Special Taxing District's improvements or equipment.
15. Within thirty (30) days of the Completion Date, the County shall provide to the Town a final financial reconciliation of all known liabilities for the Special Taxing District. Any omission from the final reconciliation shall not constitute a waiver by either the County or the Town for payment to or from the Special Taxing District's account.

16. Within sixty (60) days of the Completion Date, the County shall remit to the Town any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the Town for any deficit in the Special Taxing District's account.
17. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the Town is encouraged to pay the Living Wage.
18. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the Town does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the Town's failure to provide services or maintain, repair, replace, or operate the Improvements.
19. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the Town and the County and shall remain in full force and effect and be binding on the Town, and any permitted successors or assigns.
20. In the event that the Town requests any third party to assume any of the responsibilities hereunder, the Town acknowledges that such assumption shall not relieve the Town from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
21. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
22. The language agreed to herein expresses the mutual intent and agreement of the County and the Town, and shall not, as a matter of judicial construction, be construed more severely against one of the parties from the other.

Town:

Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

County :

Miami-Dade County  
Stephen P. Clark Center  
111 Northwest First Street  
Miami, Florida 33128

**IN WITNESS WHEREOF**, the Town of Miami Lakes has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

ATTEST: **TOWN OF MIAMI LAKES, a municipal corporation**

By: \_\_\_\_\_  
Gina M. Inguanzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Raul Gastesi, Town Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Mayor or Mayor's Designee

\_\_\_\_\_ Date

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_ Date

**TRANSFER OF THE LAKE PATRICIA MULTIPURPOSE SPECIAL TAXING  
DISTRICT FROM MIAMI-DADE COUNTY TO THE TOWN OF MIAMI LAKES**

THIS AGREEMENT FOR TRANSFER OF THE LAKE PATRICIA MULTIPURPOSE SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **TOWN OF MIAMI LAKES, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**Town**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the “**County**”).

**WITNESSETH**

**WHEREAS**, the Town has requested transfer of the ownership of the assets and control of the Lake Patricia Multipurpose Special Taxing District (“**Special Taxing District**”) from the County to the Town such that the Town Commission will become the governing body responsible for the Special Taxing District; and

**WHEREAS**, the Town and the County are mutually desirous of transferring the Special Taxing District to the Town; and

**WHEREAS**, the Town shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

**NOW, THEREFORE**, in consideration of the covenants herein provided, the Town of Miami Lakes and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer (“**Effective Date**”).
3. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District (“**Transfer Date**”). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.
4. On October 1, 2018, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the Town will be exclusively responsible for the Special Taxing District (“**Completion Date**”).
5. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date (“**Transition Period**”), but any action requiring board approval will be presented to the Town Commission.

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7. Beginning on the Transfer Date, the Town shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
8. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the Town to provide assistance with operations questions.
9. The Town shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2018. If the Town intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the Town shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
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11. Prior to the Completion Date, the Town shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for lake maintenance. The Town's contractors shall commence service on October 1, 2018.
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13. Beginning on the Completion Date, the Town shall be responsible for payment of all of the Special Taxing District's expenses.
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16. Within sixty (60) days of the Completion Date, the County shall remit to the Town any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the Town for any deficit in the Special Taxing District's account.
17. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the Town is encouraged to pay the Living Wage.
18. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the Town does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the Town's failure to provide services or maintain, repair, replace, or operate the Improvements.
19. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the Town and the County and shall remain in full force and effect and be binding on the Town, and any permitted successors or assigns.
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21. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
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Town:

Town of Miami Lakes  
6601 Main Street  
Miami Lakes, Florida 33014

County :

Miami-Dade County  
Stephen P. Clark Center  
111 Northwest First Street  
Miami, Florida 33128

**IN WITNESS WHEREOF**, the Town of Miami Lakes has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

ATTEST: **TOWN OF MIAMI LAKES, a municipal corporation**

By: \_\_\_\_\_  
Gina M. Inguanzo, Town Clerk

By: \_\_\_\_\_  
Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Raul Gastesi, Town Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Mayor or Mayor's Designee

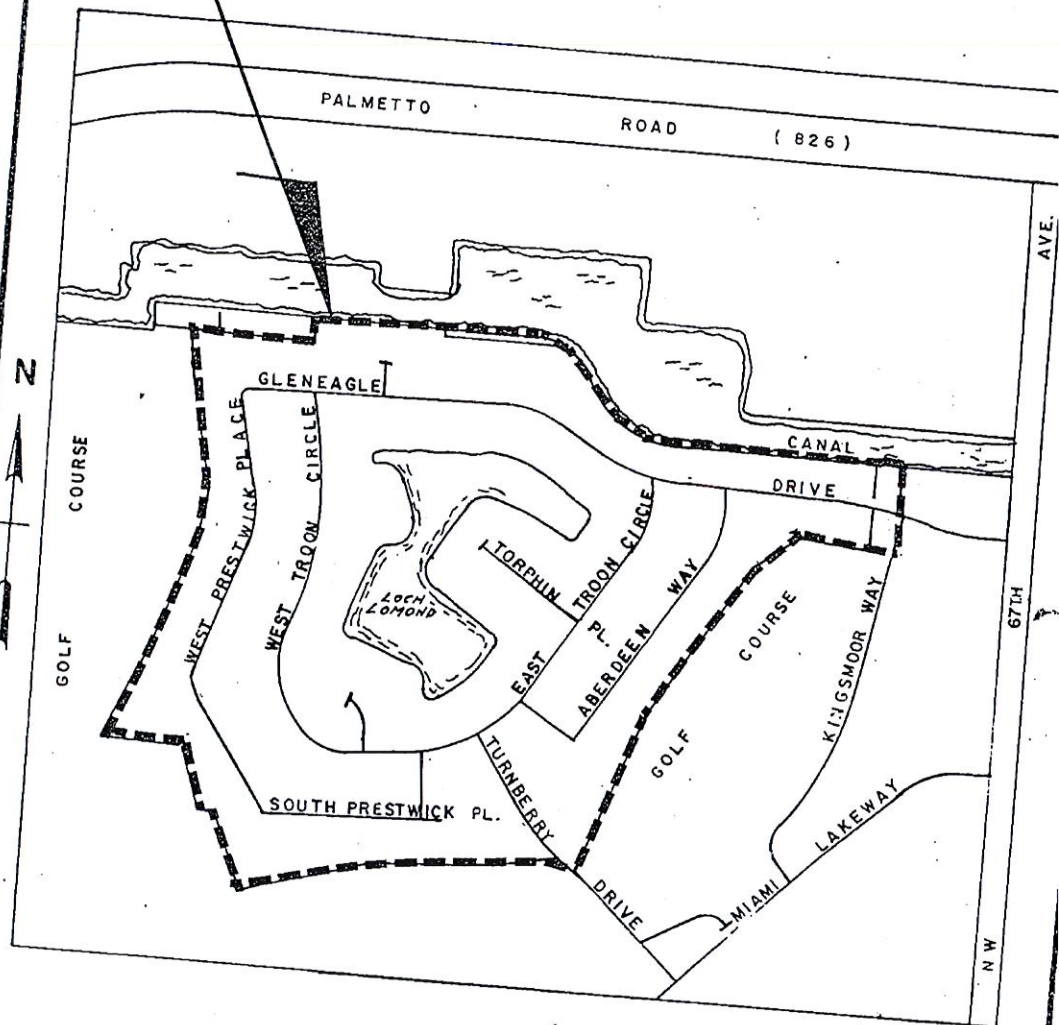
\_\_\_\_\_ Date

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_ Date

**PROPOSED DISTRICT BOUNDARIES**



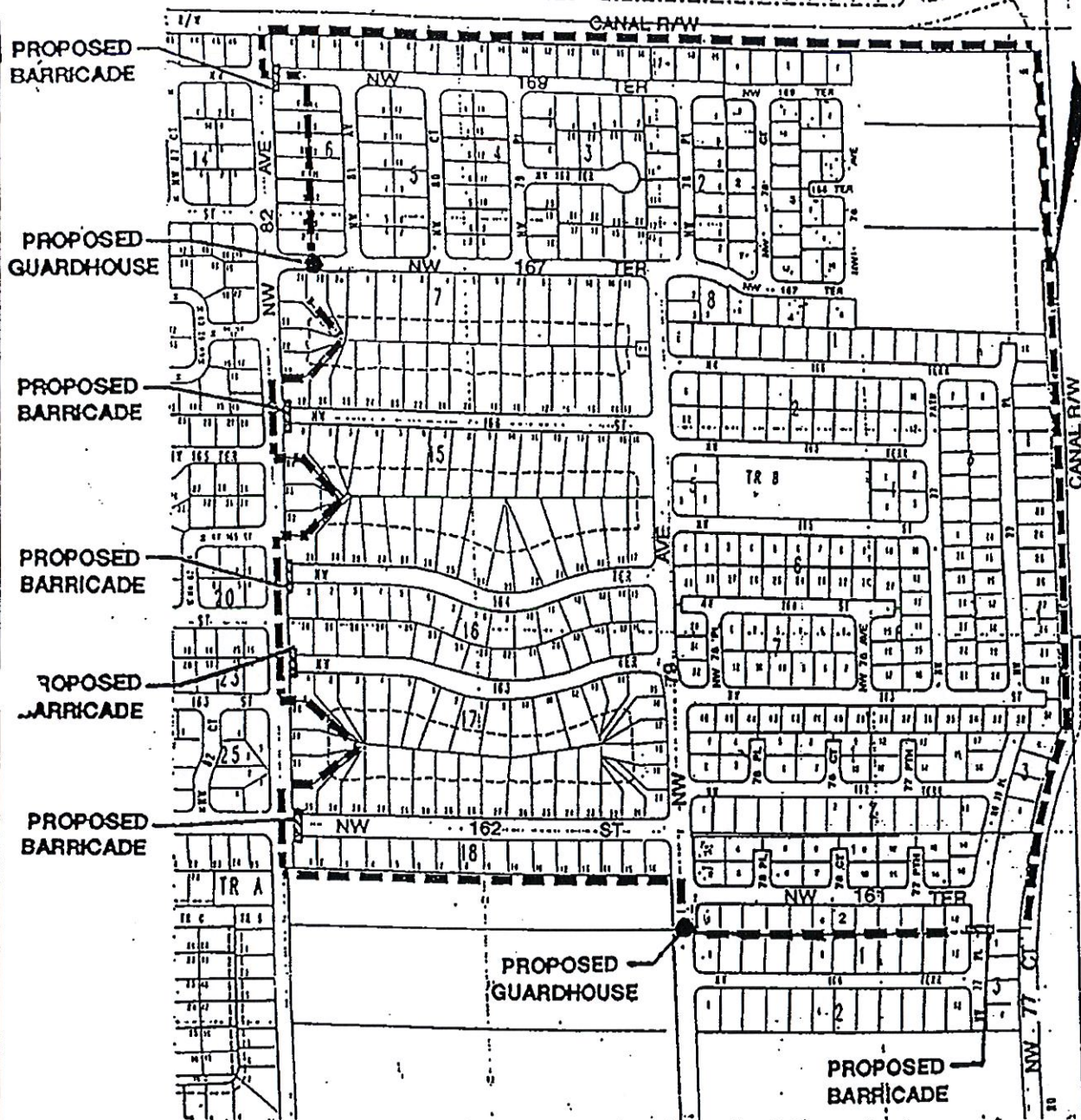
**MIAMI LAKES - LOCH LOMOND**  
SECURITY GUARD SPECIAL TAXING DISTRICT

SECTION: 14-52-40

Exhibit "B"

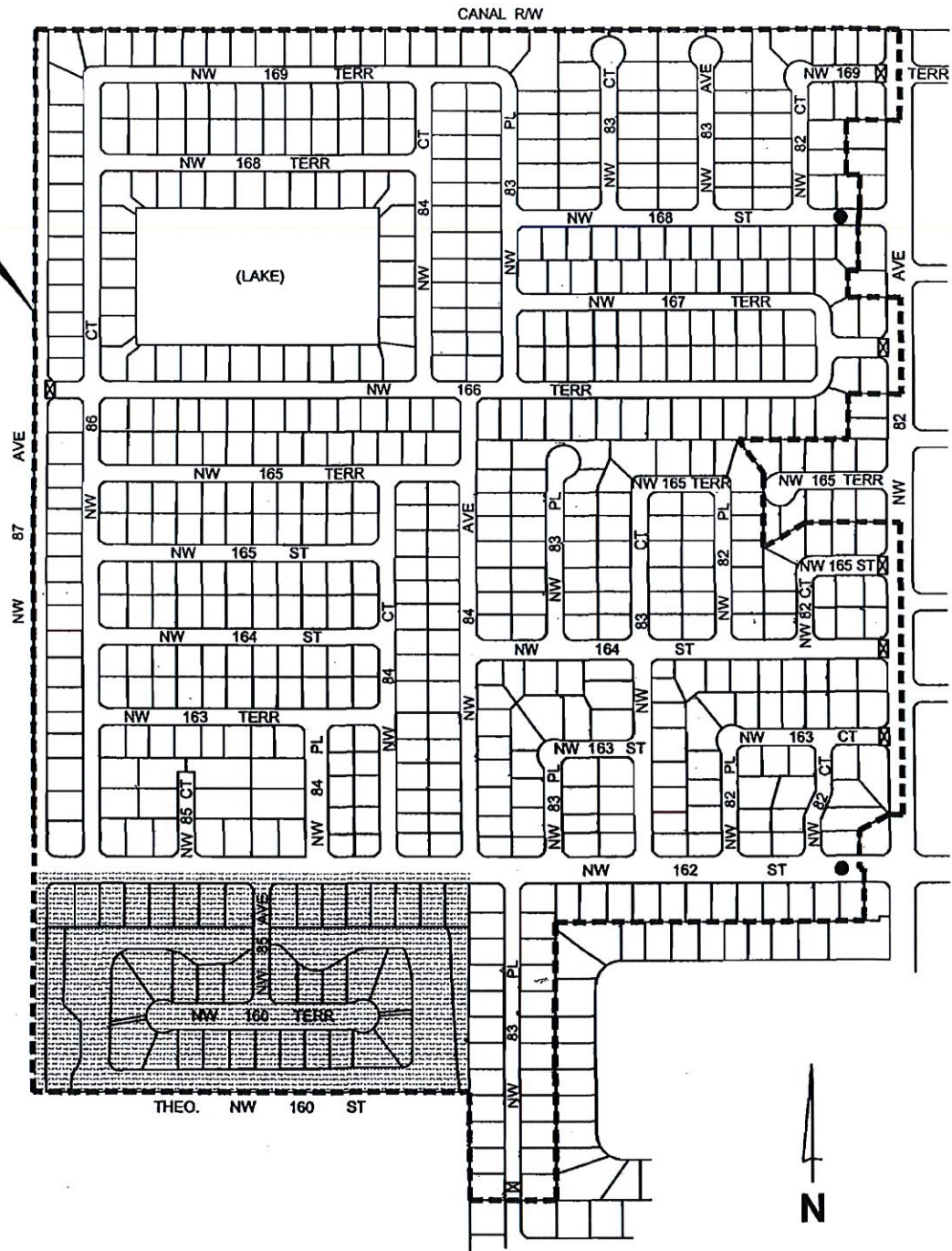


# PROPOSED DISTRICT BOUNDARIES



ROYAL OAKS EAST  
SECURITY GUARD  
SPECIAL TAXING DISTRICT

DISTRICT  
BOUNDARIES



## ROYAL OAKS SECTION 1

SECURITY GUARD SPECIAL TAXING DISTRICT  
(EXPANSION)

EXPANSION AREA SHOWN SHADED

- GUARDHOUSE
- ⊠ BARRICADE

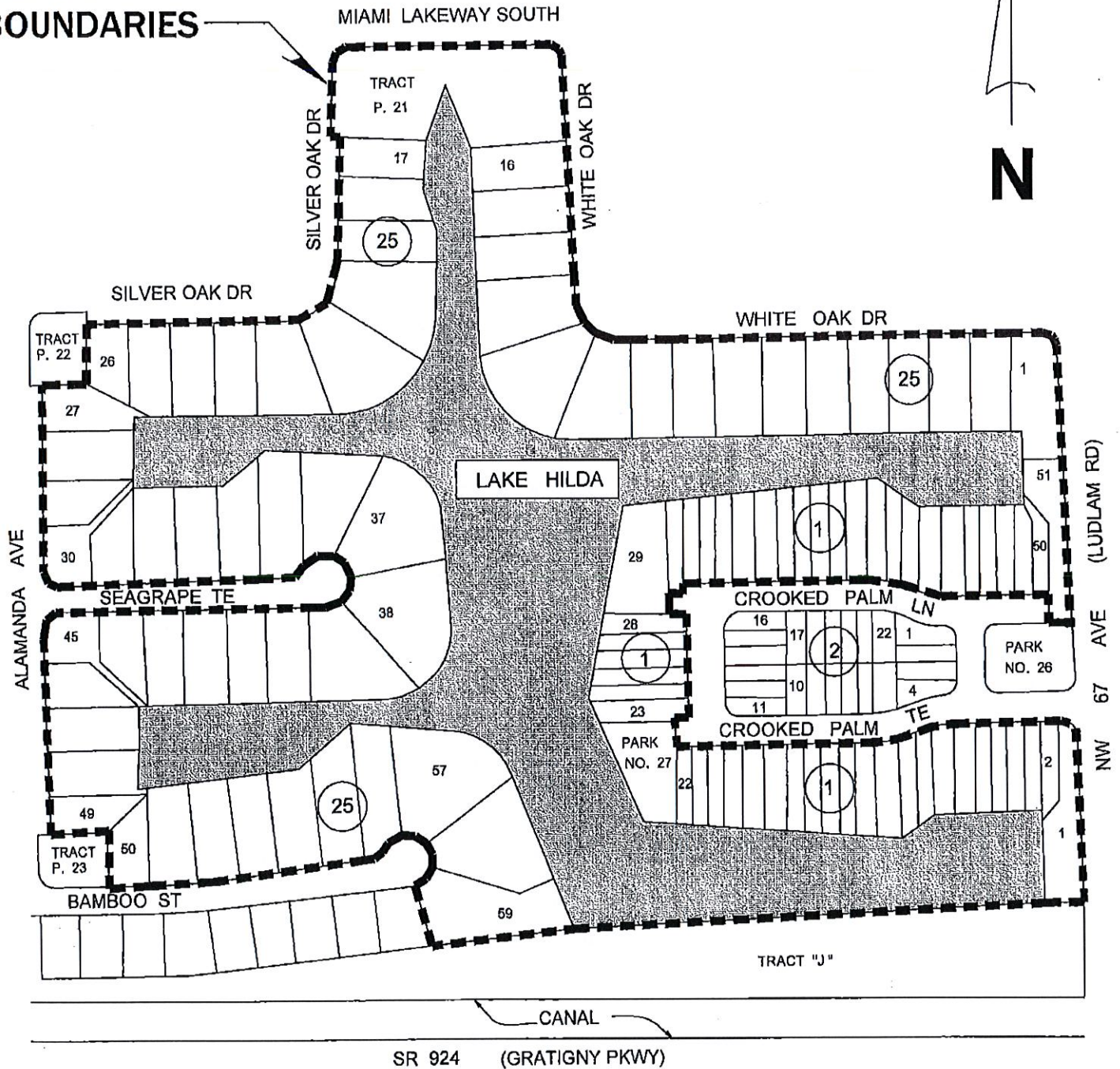
G-226 (COMM. 0013)  
SECTION: 15 - 52 - 40

(REVISED 1-11-08)  
EXHIBIT "A"

24



# PROPOSED DISTRICT BOUNDARIES



## LAKE HILDA

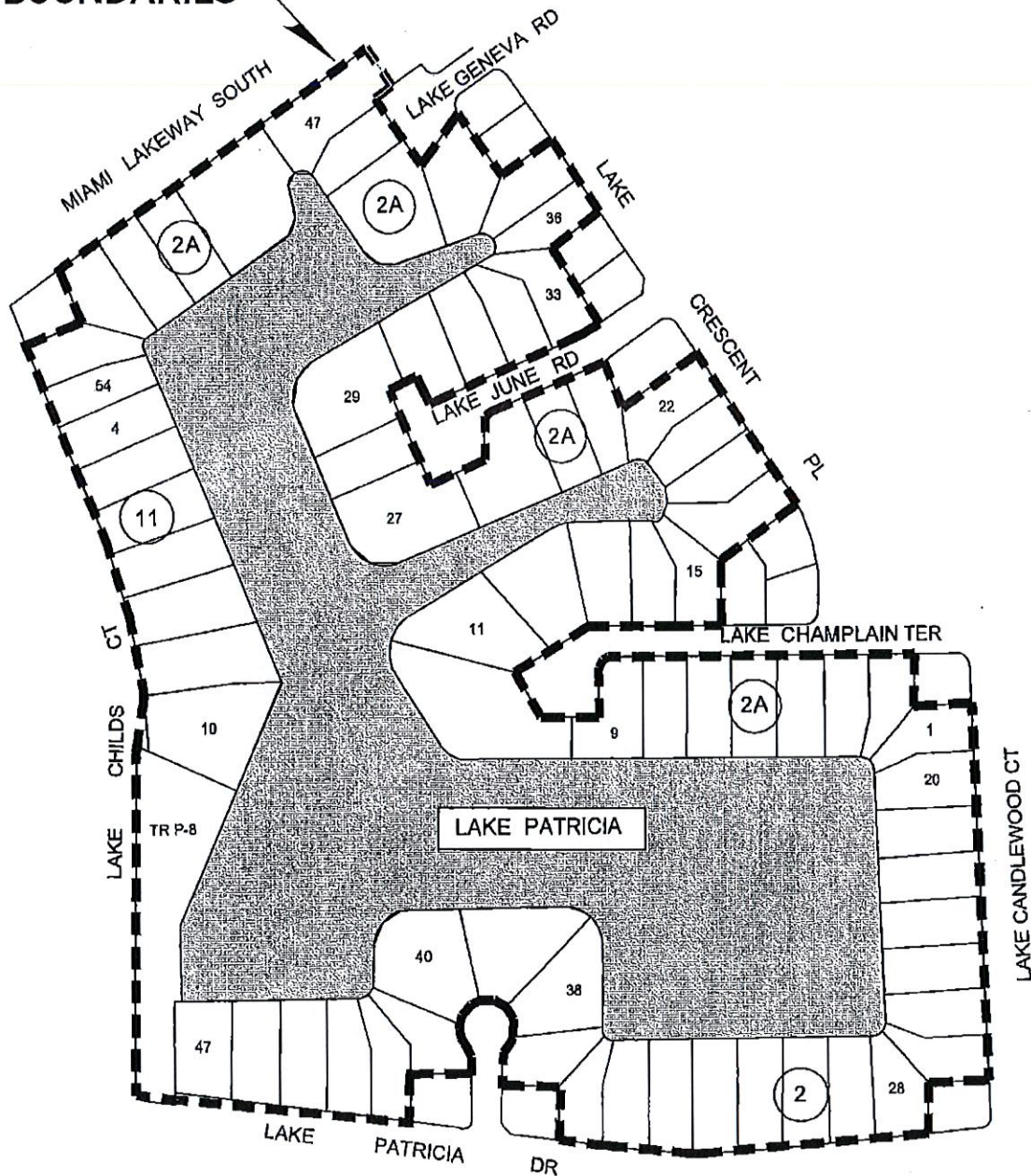
MULTIPURPOSE MAINTENANCE  
SPECIAL TAXING DISTRICT

SHADING DENOTES AREAS TO BE MAINTAINED.

### EXHIBIT "A"

(Boundaries and Geographical Location Sketch)

**PROPOSED  
DISTRICT  
BOUNDARIES**



**LAKE PATRICIA**

**MULTIPURPOSE MAINTENANCE  
SPECIAL TAXING DISTRICT**

 SHADING DENOTES AREAS TO BE MAINTAINED.

**EXHIBIT "A"**

(Boundaries and Geographical Location Sketch)





6601 Main Street • Miami Lakes, Florida 33014

Office: (305) 364-6100 • Fax: (305) 558-8511

Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

## Special Taxing Districts Transfer Timeline

The estimated dates and information provided herein are for internal Miami-Dade County use and are not intended to be relied upon or to provide advice, legal or otherwise. Municipalities should consult with their attorneys.

September 5, 2017 (Town of Miami Lakes)

- Town needs to approve interlocal for legal sufficiency.

October 9-20, 2017 (COUNTY)

- October BCC committee cycle.

November 7 or 21, 2017 (COUNTY)

- BCC public hearing
- Resolution calling for special election.

December, 5 2017 (Town of Miami Lakes)

- Town to pass a joint resolution accepting and ratifying County resolution.

January 23, 2017 (COUNTY)

- Election Date on the Joint Resolution to transfer the district
- If voters approve, Town will become the new governing body of the SPTX 30 days after election.

January 31, 2018 (COUNTY)

- A preliminary financial reconciliation of all known liabilities for the SPTX to date will be provided.
- Town to begin preparing a proposed budget for the SPTX and start working on new rates.

February 5, 2018 (COUNTY)

- PROS to coordinate a meeting/training regarding rate preparation/assessment.

February 23, 2018 (Town of Miami Lakes)

- Town becomes the new governing body of the SPTX.
- PROS will coordinate with the Town for training on handling access devices, inventory, and issuance of devices.

May 1, 2018 (Town of Miami Lakes)

- Town is required to submit a list of all eligible districts to PA's Office.

July 1, 2018 (COUNTY)



6601 Main Street • Miami Lakes, Florida 33014

Office: (305) 364-6100 • Fax: (305) 558-8511

Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

- PROS to provide a 60-day termination notice to any service provider/vendor currently in the SPTX and that Town does not wish to continue using.

July 17, 2018

- Town is required to submit final folio and rate files to PA.

August 31, 2018 (Town of Miami Lakes)

- Town to transfer Utility accounts
- This will allow for a final bill to be received and consolidated by close-out.

September 15, 2018

- Deadline for Town to adopt a non-ad valorem assessment roll
- See Fla Stat. 197.3632 for notice requirements.

October 1, 2018 (COUNTY & Town of Miami Lakes)

- Transfer date
- PROS will cease operations of the SPTX
- Town to start paying bills.

October 15, 2018 (COUNTY)

- Year-end close out of financial documents
- Reconciliation of Tax certificate sales.



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Authorizing Town Manager to modify service with Florida Power and Light (FPL) and convert FPL owned streetlights to LED  
**Date:** 9/5/2017

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### **Recommendation:**

It is recommended that the Town Council authorize the Town Manager to modify service with Florida Power and Light (FPL) and convert FPL owned streetlights to LED as long as the aggregate cost of service remains the same or less than the existing cost for FPL owned lights.

### **Background:**

The Town has started the LED conversion of all Town-owned lights and installation is expected to be completed by end of November 2017; however, until recently, the Town did not have jurisdiction to modify FPL owned lights to LED lights.

In a recent meeting with FPL representatives, the Town was made aware of new tariffs that are available for LED conversion on FPL owned lights. With the new FPL tariffs, it may be possible to convert the existing FPL owned lights to LED at no additional monthly cost. LED streetlights are more energy efficient, have a longer lifespan, and produce a higher quality of light than the existing fixtures which would provide citizens with better light quality on streets and roadways. This would allow the Town to provide the rest of the Town with a similar alternative, providing more uniform and consistent lighting across the Town at no additional cost.

The LED retrofit project supports two goals in the Town's 2025 Strategic Plan: Achieve universal environmental sustainability in public and private environments, operations and infrastructure; and, Achieve National recognition as a 'Model Town' for creativity, education, innovation and use of technology.

### **ATTACHMENTS:**

Description

**FPL Resolution**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF  
MIAMI LAKES AUTHORIZING TOWN MANAGER TO MODIFY  
SERVICE WITH FLORIDA POWER AND LIGHT (FPL) AND  
CONVERT FPL OWNED STREET LIGHTS TO LED LIGHTS;  
PROVIDING FOR INCORPORATION OF RECITALS AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town has begun LED conversion of its Town-Owned street lights; and

**WHEREAS**, the Town was recently made aware of new Florida Power and Light (“FPL”) tariffs that will allow for the conversion of existing FPL lights to LED lights; and

**WHEREAS**, the new FPL tariff will allow the Town to provide LED lights to its residents at no additional cost; and

**WHEREAS**, the LED retrofit of existing FPL owned lights is consistent and in line with the Town’s 2025 Strategic Plan; and

**WHEREAS**, the Town Manager seeks Town Council approval to modify service with FPL in order to accomplish LED retrofit of FPL owned lights; and

**WHEREAS**, the Town Council finds that it is in the best interest of the Town to grant Town Manager authority to negotiate with FPL the LED retrofit of existing FPL lights.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE  
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Authorization of Town Officials.** The Town Manager and/or his designee are authorized to take all steps necessary to negotiate with Florida Power and Light for the LED retrofit of existing Florida Power and Light owned street lights and to carry out this resolution.

**Section 3. Effective Date.** This Resolution shall take effect immediately upon adoption.



**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Timothy Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

\_\_\_\_\_  
Manny Cid  
MAYOR

Attest:

\_\_\_\_\_  
Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY





## **Town of Miami Lakes Memorandum**

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**To: The Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Sidewalk Ordinance**  
**Date: 9/5/2017**

---

### **Recommendation:**

Staff recommends approval of the proposed ordinance to facilitate the complete buildout of the Town's sidewalk network by requiring certain developments to construct new sidewalks, repair existing sidewalks or pay in to a mitigation program to offset the Town's cost of performing the work.

### **Background:**

The aim of the proposed ordinance is to provide a tool that ensures the complete buildout of the Town's sidewalk network in substantial compliance with the Town's Complete Streets Master Plan. It is pursued as part of a broader initiative identified in both the Town's Strategic Plan, and the Comprehensive Development Master Plan's (Comp Plan) Mobility Program, to adopt provisions that enable improved sidewalk interconnectivity throughout the Town. More specifically, Policy 2.2.4 of the Town's Comp Plan and Initiative 1.5.2 of the Strategic Plan specifically call for a code provision that achieves that objective. The ordinance provides for the inclusion of sidewalks in most development plans and the establishment of a sidewalk mitigation program for those projects that have particular challenges in complying with sidewalk construction requirements. The program also provides for projects to repair existing sidewalk facilities adjacent to their properties. Exemptions are provided for smaller scaled projects as well as those related to roof repairs for single family homes.

On June 20, 2017, the Planning and Zoning Board recommended to the Town Council, approval of the ordinance with a modification to include the construction cost estimating book entitled "RS Means." The attached ordinance is reflective of that recommendation.

### **ATTACHMENTS:**

Description

Ordinance

LPA Submittal

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO THE TOWN'S SIDEWALK NETWORK; ADOPTING RECITALS; AMENDING CHAPTER 35, ENTITLED 'STREETS, SIDEWALKS AND OTHER PUBLIC PLACES', ESTABLISHING PROVISIONS FOR THE COMPLETE BUILD-OUT OF THE TOWN'S SIDEWALK NETWORK; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on July 26, 2016, the Town Council of the Town of Miami Lakes adopted Ordinance No. 16-194, amending the Town's Comprehensive Master Development Plan, incorporating language at Policies 2.1.6, 2.2.4, 2.6.8, and 2.6.9, among others, which support interconnectivity of the Town's sidewalk network; and

**WHEREAS**, Chapter 35 of the Town of Miami Lakes (the "Town") Code, entitled "Streets, Sidewalks and Other Public Spaces" is intended to provide standards to address sidewalks within the Town's right-of-way, however it does not provide for the completion of the Town's desire to have complete sidewalk interconnectivity; and

**WHEREAS**, to fulfill the Town's vision of achieving multimodal interconnectivity throughout the Town, the Town Council desires to establish rules which will further that goal; and

**WHEREAS**, on June 20, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, on September \_\_\_\_, 2017, the Town Council moved the item on First Reading; and

**WHEREAS**, on October \_\_\_, 2017, the Town Council considered the ordinance at a duly advertised public hearing; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amendment.** Chapter 35, Streets, Sidewalks and Other Public Spaces, of the Town's Land Development Code is hereby amended as provided at Exhibit A:

**Section 3. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Article", "Division" or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember \_\_\_\_\_, who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

[THIS SPACE INTENTIONALLY LEFT BLANK]

## SECOND READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

---

Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

EXHIBIT A  
ORDINANCE



## Chapter 35 – STREETS, SIDEWALKS AND OTHER PUBLIC SPACES

### ARTICLE I. – IN GENERAL

\* \* \*

#### Sec. 35-3 SIDEWALKS.

- (a) Intent. It is the stated intent of the town, as part of its broader mobility plan, to provide for sidewalk interconnectivity throughout the town. This Section seeks to achieve this intent by establishing provisions that ensure sidewalk infrastructure, where missing, inadequate or in need of repair, is therefore planned and constructed.
- (b) Sidewalk plans shown. All plans submitted to the town in connection with any development permit application, including a building permit or development order pursuant to Chapter 13, Article 3, of the Land Development Code, upon any parcel of land in the town abutting a public right-of-way, shall show the location of any existing sidewalks.
- (c) All permits for construction, regardless of applicability or exemptions as provided below, shall provide for repair of existing sidewalks adjacent to the subject property. No final certificate of completion or occupancy shall be issued until such repair work is completed with inspection approvals.
- (d) Applicability. All new construction on unimproved land and any renovation or remodeling of existing building and facilities shall provide sidewalks along all street frontages, as part of that development plan except as may be otherwise provided for or exempted by these provisions.
- (e) Exemptions. The following projects are exempt from the Sidewalk Mitigation program requirements, but shall continue to be subject to the provisions of Section 202, Florida Building Code, relating to existing buildings and facilities:
  - 1. Residential renovations/additions under \$30,000;
  - 2. Single family residential roof repairs;
- (f) Permitting. No building permit shall be issued for the construction of improvements for the projects required to provide sidewalk interconnectivity as provided above, unless the proposed plans include the location of sidewalks, and said sidewalks are to be constructed or repaired as needed by the applicant in accordance with the requirements imposed by the town, and no certificate of completion or occupancy shall be granted unless such sidewalks are completed in accordance with the proposed plans.
- (g) Sidewalk Mitigation Program. The Town Council of the Town of Miami Lakes hereby creates the Sidewalk Mitigation program. The program is established to provide a compliance alternative for those properties that may otherwise be unable to conform to these provisions. Eligible properties may contribute to the program that amount that would have otherwise been spent providing the required sidewalk facility had they built it themselves. Any allocation

received by the fund shall be applied towards the town's efforts to complete an interconnected sidewalk system within the town.

(1) The Administrative Official shall grant eligibility into the Sidewalk Mitigation program by a showing of the property owner that the construction of sidewalks on the subject property is:

a. impossible due to the existence of permanent obstructions; or

b. would create an urgent safety hazard; or

c. would create a severe drainage obstruction; or

d. the result of a single tenant in a mixed use commercial property that occupies less than 50% of the leasable commercial space, and it is so determined that requiring that single tenant improvement would be an unreasonable application of the law; or

e. at the Town's request.

(2) Properties eligible to participate in the program shall be required to pay Town's prevailing contractual cost per square yard plus a ten percent (10%) administrative overhead rate of sidewalk area required to be constructed, replaced or repaired. For participants in a multitenant commercial building, payment shall be prorated based on the percentage of leasable space occupied by the applicant within the building(s).

(3) Any property owner aggrieved by a decision of the Administrative Official either allowing or disallowing the eligibility into the Sidewalk Mitigation program, shall have the right, upon payment of applicable fee, to file a written appeal to the Town Manager within ten days of the date of written notification of said decision. Any appeal of the Town Manager's decision shall be made to the Council. Final determination of any appeal shall be made pursuant to the standards set forth in division (g)(1) above.

(h) At no time shall the cost of providing required sidewalks or contribution into the Sidewalk Mitigation program exceed 20% of the construction cost of the project.



## **Town of Miami Lakes Memorandum**

---

**To: Chairman Rodriguez and Board Members**

**From: Darby DelSalle, Planning Director**

**Subject: Sidewalk Ordinance**

**Date: June 20, 2017**

---

### **Recommendation:**

Staff recommends approval of the proposed ordinance to facilitate the complete build-out of the Town's sidewalk network by requiring certain developments to construct new sidewalks, repair existing sidewalks or pay into a mitigation program to offset the Town's cost of performing the work.

### **Background:**

The aim of the proposed ordinance is to provide a tool that ensures the complete build-out of the Town's sidewalk network. It is pursued as part of a broader initiative identified in both the Town's Strategic Plan, and the Comprehensive Development Master Plan's (Comp Plan) Mobility Program, to adopt provisions that enable improved sidewalk inter-connectivity throughout the Town. More specifically, Policy 2.2.4 of the Town's Comp Plan and Initiative 1.5.2 of the Strategic Plan specifically call for a code provision that achieves that objective. The ordinance provides for the inclusion of sidewalks in most development plans and the establishment of a sidewalk mitigation program for those projects that have particular challenges in complying with sidewalk construction requirements. The program also provides for projects to repair existing sidewalk facilities adjacent to their properties. Exemptions are provided for smaller scaled projects as well as those related to roof repairs for single family homes.

### **Attachments:**

[Ordinance](#)

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO THE TOWN'S SIDEWALK NETWORK; ADOPTING RECITALS; AMENDING CHAPTER 35, ENTITLED 'STREETS, SIDEWALKS AND OTHER PUBLIC PLACES', ESTABLISHING PROVISIONS FOR THE COMPLETE BUILD-OUT OF THE TOWN'S SIDEWALK NETWORK; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on July 26, 2016, the Town Council of the Town of Miami Lakes adopted Ordinance No. 16-194, amending the Town's Comprehensive Master Development Plan, incorporating language at Policies 2.1.6, 2.2.4, 2.6.8, and 2.6.9, among others, which support interconnectivity of the Town's sidewalk network; and

**WHEREAS**, Chapter 35 of the Town of Miami Lakes (the "Town") Code, entitled "Streets, Sidewalks and Other Public Spaces" is intended to provide standards to address sidewalks within the Town's right-of-way, however it does not provide for the completion of the Town's desire to have complete sidewalk interconnectivity; and

**WHEREAS**, to fulfill the Town's vision of achieving multimodal interconnectivity throughout the Town, the Town Council desires to establish rules which will further that goal; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is necessary, appropriate and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN  
OF MIAMI LAKES AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amendment.** Chapter 35, Streets, Sidewalks and Other Public Spaces, of the Town's Land Development Code is hereby amended as provided at Exhibit A:

**Section 3. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Article", "Division" or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember \_\_\_\_\_, who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

### FIRST READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

[THIS SPACE INTENTIONALLY LEFT BLANK]

## SECOND READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

---

Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

EXHIBIT A  
ORDINANCE



## Chapter 35 – STREETS, SIDEWALKS AND OTHER PUBLIC SPACES

### ARTICLE I. – IN GENERAL

\* \* \*

#### Sec. 35-3 SIDEWALKS.

- (a) Intent. It is the stated intent of the town, as part of its broader mobility plan, to provide for sidewalk interconnectivity throughout the town. This Section seeks to achieve this intent by providing provisions that ensure sidewalk infrastructure, where missing, inadequate or in need of repair, is therefore planned and constructed.
- (b) Sidewalk plans shown. All plans submitted to the town in connection with any development permit application, including a building permit or development order pursuant to Chapter 13, Article 3, of the Land Development Code, upon any parcel of land in the town abutting a public right-of-way, shall show the location of any existing sidewalks.
- (c) All permits for construction, regardless of applicability or exemptions as provided below, shall provide for repair of existing sidewalks adjacent to the subject property. No final certificate of completion or occupancy shall be issued until such repair work is completed with inspection approvals.
- (d) Applicability. All new construction on unimproved land and any renovation or remodeling of existing building and facilities shall provide sidewalks along all street frontages, as part of that development plan except as may be otherwise provided for or exempted by these provisions.
- (e) Exemptions. The following projects are exempt from the Sidewalk Mitigation program requirements, but shall continue to be subject to the provisions of Section 202, Florida Building Code, relating to existing buildings and facilities:
  - 1. Residential renovations/additions under \$30,000;
  - 2. Single family residential roof repairs;
- (f) Permitting. No building permit shall be issued for the construction of improvements for the projects required to provide sidewalk interconnectivity as provided above, unless the proposed plans include the location of sidewalks, and said sidewalks are to be constructed or repaired as needed by the applicant in accordance with the requirements imposed by the town, and no certificate of completion or occupancy shall be granted unless such sidewalks are completed in accordance with the proposed plans.
- (g) Sidewalk Mitigation Program. The Town Council of the Town of Miami Lakes hereby creates the Sidewalk Mitigation program. The program is established to provide a compliance alternative for those properties that may otherwise be unable to conform to these provisions. Eligible properties may contribute to the program that amount that would have otherwise been spent providing the required sidewalk facility had they built it themselves.

Any allocation received by the fund shall be applied towards the town's efforts to complete an interconnected sidewalk system within the town.

(1) The Administrative Official shall grant eligibility into the Sidewalk Mitigation program by a showing of the property owner that the construction of sidewalks on the subject property is:

a. impossible due to the existence of permanent obstructions; or

b. would create an urgent safety hazard; or

c. would create a severe drainage obstruction; or

d. the result of a single tenant in a mixed use commercial property that occupies less than 50% of the leasable commercial space, and it is so determined that requiring that single tenant improvement would be an unreasonable application of the law; or

e. at the Town's request.

(2) Properties eligible to participate in the program shall be required to pay a minimum of \$40 per square yard or the Town's prevailing cost per square yard, whichever is higher, of sidewalk required to be constructed, replaced or repaired. For participants in a multitenant commercial building, payment shall be prorated based on the percentage of leasable space occupied by the applicant within the building(s).

(3) Any property owner aggrieved by a decision of the Administrative Official either allowing or disallowing the eligibility into the Sidewalk Mitigation program, shall have the right, upon payment of applicable fee, to file a written appeal to the Town Manager within ten days of the date of written notification of said decision. Any appeal of the Town Manager's decision shall be made to the Council. Final determination of any appeal shall be made pursuant to the standards set forth in division (g)(1) above.

(h) At no time shall the cost of providing required sidewalks or contribution into the Sidewalk Mitigation program exceed 20% of the construction cost of the project.



## **Town of Miami Lakes Memorandum**

---

**To:** Chairman Rodriguez and Board Members

**From:** Darby DelSalle, Planning Director

**Subject:** Construction Sites and Abandoned Properties

**Date:** June 20, 2017

---

### **Recommendation:**

Staff recommends approval of the proposed ordinance that improves the aesthetics and mitigates the impact of construction sites and abandoned properties to preserve property values and quality of life by requiring a site management plan, temporary fencing and establishing property standards that shall apply to construction sites and vacant/unoccupied properties.

### **Background:**

The aim of the proposed ordinance is to respond to concerns raised by the residents of the Town as reflected in separate motions of the Town Council on October 4, 2016 and December 6, 2016, as they relate to construction sites and abandoned/vacant/unoccupied properties. The proposed ordinance provides measures that seek to manage potential impacts of a construction sites such as securing the perimeter of the site with fencing, dust control, site access, construction phasing, and staging of equipment. The ordinance requires development projects to provide a detailed construction staging and management plan prior to issuance of building permits including the erection of fencing prior to the commencement of any construction activity. The ordinance also provides for the securing and screening of abandoned properties to mitigate against any deleterious impact that may result from their abandonment.

### **Attachments:**

[Ordinance](#)

ORDINANCE NO. 17- \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTY; CREATING ARTICLE 3, CONSTRUCTION SITES AND ABANDONED PROPERTY, IN CHAPTER 16, NUISANCES; CREATING SITE MANAGEMENT PROVISIONS FOR SAME; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on October 4, 2016, the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of abandoned “eye sore” properties that, as a result of their neglect and abandonment, may harm the property values of property owners in the Town of Miami Lakes; and

**WHEREAS**, on December 6, 2016; the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of properties under construction, the impact of which may have a negative impact on adjacent properties; and

**WHEREAS**, in fulfillment of those two directives, this ordinance provides for screening of such properties described herein and provides for other operational standards which further the Town Council’s intent; and

**WHEREAS**, on June \_\_\_\_\_, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amendment.** Article III, Construction Sites and Abandoned Properties, in Chapter 16, Nuisances, is hereby created as provided at Attachment “A.”

**Section 3. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember \_\_\_\_\_, who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

## FIRST READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

## SECOND READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

## EXHIBIT A

### PROPOSED ORDINANCE

#### CHAPTER 16 – NUISANCES

\* \* \*

#### ARTICLE III. - CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTIES

16-30 Definitions. For the purpose of this section, the following definitions shall apply:

Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements.

Vacated/unoccupied property shall mean lands improved with a structure or building that have otherwise gone unoccupied for a period of six (6) months or more. Any determination of vacant/unoccupied property shall be evaluated separate from any determination or review of conforming status.

Permanent perimeter fence shall mean any fencing required at or around the perimeter of a property pursuant to the Town's Land Development Code or as part of a development order, for a residential subdivision or nonresidential property.

Property shall mean all lands within the perimeter of a residential subdivision, or vacant unoccupied property, or that portion of a vacant commercial or mixed-use property subject to construction.

Temporary perimeter fence shall mean any fencing other than that which is defined as permanent perimeter fence, which is otherwise required to be installed pursuant to this Division. Temporary perimeter fences shall be required to comply with all applicable standards of the *Florida Building Code* as may be amended from time to time.

16-31 Site Management Plan.

No permit for construction shall be issued within the town without an approved site management plan that shall be submitted to the town's building department for review and approval prior to issuance of the construction permit. The site management plan shall include a site plan of the structure to be constructed, location of utilities, material storage location, location of dumpsters and method of securing trash during hurricane season, and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, and a construction schedule.

16-32 Fencing.

(1) Temporary Perimeter Fencing Required. All construction sites, other than those explicitly exempted, shall provide, at a minimum, six (6) foot chain link fencing with green nylon mesh or silk material running the full height and length of the fence, around the entire perimeter of the property prior to, and during all phases of, the construction. A building permit for the perimeter fencing is required, and the temporary perimeter fence must be installed, inspected, and permit finalized by the building department prior to initiating all other construction. Such fencing, as described in this subsection, shall not be required at those portions of the property where a



permanent perimeter fence was issued a building permit, was installed, and received final inspection.

- a. All screening shall be maintained in good condition and free of tears, graffiti, stains, soiling, or any other degradation that may occur to it.
  - b. Graphic designs reflective of an approved development project and/or the Town's logo and tag line "Miami Lakes, Growing Beautifully" may be permitted as authorized by the Town Manager or his/her designee. Garish and neon colors of any proposed graphics, and any associated lighting thereto shall be prohibited.
- (2) Permanent perimeter fencing. All projects required to provide permanent fencing around the perimeter of a residential subdivision or other nonresidential development, pursuant to the Town's Land Development Code, or as otherwise required by development order, shall secure the necessary permits, install the perimeter fence and receive approved final inspections prior to the issuance of any other permit for construction.
  - (3) Demolition permits. All properties subject to demolition permits must be secured by fencing as described in Section 13-1702 above and additionally comply with any applicable provisions of the *Florida Building Code*, as it relates to demolition permit requirements. The required perimeter fence shall be installed on the front, sides and rear lot lines.
  - (4) Vacant/unoccupied property. Vacant/unoccupied property shall be enclosed with a temporary six (6) foot fence if it is determined by the Town Manager or his/her designee that in so doing, the best interests of the Town are served. This provision does not preclude a property owner from voluntarily erecting a perimeter fence during such time the property is vacant/unoccupied. The fencing shall include a green mesh or silk covering the full height and length of the temporary constructions fence. A Building Permit is required.
  - (5) Condition. All fencing required pursuant to this Division shall be maintained in good condition throughout the duration that such fencing is required to be installed and maintained. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours.
  - (6) Perimeter fencing shall not block site visibility triangles at intersections and driveway entrances.
  - (7) Except as may be provided for by Chapter 13 of the Town's Land Development Code, all fencing regulated by this Division shall be free and clear of any graphic designs or advertising except as permitted by the Town Manager pursuant to paragraph (1)b above.
  - (8) Term. Any fencing required by this section shall fully comply with all provisions of the *Florida Building Code*, and remain in place through completion of construction, or until re-occupancy of a vacant/unoccupied property, unless otherwise exempted by the town's building official. Additional protective safeguards may be required where the town identifies a nuisance.

#### 16-33 Property conditions.

The following standards shall apply to construction sites and vacant/unoccupied properties as regulated by this Division.

- (1) Debris and scrap materials. All construction sites and vacant/unoccupied properties shall be maintained free of debris and scrap materials.
- (2) Dust, dirt, and particulate matter. All construction sites shall be controlled for dust, dirt, and particulate matter. The methodology used shall be sufficient to ensure prompt and efficient maintenance of the site in order to control of the dust, dirt and particulate matter.
- (3) Restoration. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.

16-34      Construction operations.

All construction sites unless otherwise exempted by the Building Official, shall conform to the following:

- (1) Construction access. Access points by construction vehicles shall be identified as part of the construction staging plan for town approval at the time a permit is issued for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.
- (2) Staging. Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.
- (3) Construction trailers. Building permit required. Construction trailers for staging area shall be permitted solely during construction and shall be removed prior to the issuance of the final certificate of occupancy.
- (4) Materials. Materials or vehicles shall not be parked, placed, or stored on public right-of-way under the jurisdiction of the town except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on right-of-way with permission of the appropriate public works department, with a time limit reported to council and public.



## **Town of Miami Lakes Memorandum**

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**To: The Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Construction Sites**  
**Date: 9/5/2017**

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### **Recommendation:**

Staff recommends approval of the proposed ordinance that seeks to mitigate the impact of construction sites to preserve adjacent property values and quality of life by requiring a site management plan, temporary fencing, and establishing property standards that shall apply to construction sites.

### **Background:**

The aim of the proposed ordinance is to respond to concerns raised by the residents of the Town as reflected in a motion of the Town Council on December 6, 2016, as they relate to construction sites. The proposed ordinance provides measures that seek to manage potential impacts of construction sites such as securing the perimeter of the site with fencing, site access, construction phasing, and staging of equipment. The ordinance requires development projects to provide a detailed construction staging and management plan prior to issuance of building permits including the erection of fencing prior to the commencement of any construction activity. The ordinance is offered in addition to those already required by the Florida Building Code and Chapter 8, Building Code, of the Miami-Dade County Code of Ordinances. The request is consistent with the Town's Comprehensive Development Master Plan and the Town's Code of Ordinances.

On June 20, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency (LPA), recommended approval of the item to the Town Council. The proposed ordinance presented at that time included provisions for perimeter fencing of properties determined to be abandoned. That portion related to an action taken by the Council on October 4, 2016 relating to eyesore properties (abandoned properties). The LPA, had concerns over the need for this provision identifying such challenges associated with enforcement, compliance, and whether the proposed remedy would result in a greater eyesore. Ultimately, they recommendation was to exclude single family residential lots.

In consideration of LPA's discussion and suggestions of the matter, staff reevaluated the practicality of fencing abandoned properties and found agreement with the LPA's concerns. Implementation, would be challenging, achieving compliance even more so, and the net result may in fact be fencing that is more of an eyesore than the abandoned property itself. As such, staff has removed from the attached proposed

ordinance those portions which address abandoned properties. It is therefore recommended that those properties shall instead be managed through existing code compliance procedures and regulations.

Other modifications to the proposed ordinance since the LPA hearing involved removing redundant code provisions, clarification of proposed provisions, and a reference to Chapter 8 of the Miami-Dade County Code of Ordinances.

**ATTACHMENTS:**

Description

**Ordinance**

**LPA Submittal**

ORDINANCE NO. 17-\_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE  
TOWN OF MIAMI LAKES, FLORIDA RELATING TO  
CONSTRUCTION SITES; AMENDING CHAPTER 16,  
NUISANCES, AND CREATING ARTICLE 3,  
CONSTRUCTION SITES; ESTABLISHING SITE  
MANAGEMENT PROVISIONS FOR SAME; PROVIDING  
FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR INCLUSION INTO  
THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on December 6, 2016, the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of properties under construction, the impact of which may have a negative impact on adjacent properties; and

**WHEREAS**, in fulfillment of that directive, this ordinance provides for screening of such properties described herein and provides for other operational standards which further the Town Council's intent; and

**WHEREAS**, on June 20, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, on September \_\_\_\_, 2017, the Town Council moved the item on First Reading; and

**WHEREAS**, on October \_\_\_\_, 2017, the Town Council considered this ordinance at a duly advertised public hearing; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares the ordinance is consistent with the Comprehensive Development Master Plan, and that adoption of this Ordinance is appropriate and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amendment.** Article III, Construction Sites, in Chapter 16, Nuisances, is hereby created as provided at Attachment “A.”

**Section 3. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered

to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”,  
“Division” or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its  
adoption on second reading.

### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved  
its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_  
and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## EXHIBIT A

### PROPOSED ORDINANCE

#### CHAPTER 16 – NUISANCES

\* \* \*

#### ARTICLE III. - CONSTRUCTION SITES

16-30      Definitions. For the purpose of this article, the following definitions shall apply:

Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements.

Permanent perimeter fence shall mean any fencing required at or around the perimeter of a property pursuant to the Town's Land Development Code or as part of a development order, for a residential subdivision or nonresidential property.

Property shall mean all lands within the perimeter of a residential subdivision, or commercial or mixed-use property, or that portion of a commercial or mixed-use property, that is subject to construction. This definition does not include a single lot developed with one single family home or duplex.

Temporary perimeter fence shall mean any fencing other than that which is defined as permanent perimeter fence, which is otherwise required to be installed pursuant to this article. Temporary perimeter fences shall be required to comply with all applicable standards of the *Florida Building Code* as may be amended from time to time.

16-31      Site Management Plan.

No permit for construction shall be issued within the town without an approved site management plan that shall be submitted to the town's building department for review and approval prior to issuance of the construction permit. The site management plan shall include a site plan of the structure(s) to be constructed, location of utilities, material storage location, location of dumpsters and method of securing trash during hurricane season, and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, and a construction schedule.

16-32      Fencing.

(1) Temporary Perimeter Fencing Required. All construction sites, other than those explicitly exempted, shall provide, at a minimum, six (6) foot chain link fencing with green nylon mesh or silk material running the full height and length of the fence, around the entire perimeter of the property prior to, and during all phases of, the construction. A building permit for the perimeter fencing is required, and the temporary perimeter fence must be installed, inspected, and permit finalized by the building department prior to initiating all other construction. Such fencing, as described in this section, shall not be required at those portions of the property where a permanent perimeter fence was issued a building permit, was installed, and received final inspection and or where other fencing currently exists which controls for access to the site.

- a. All screening shall be maintained in good condition and free of tears, graffiti, stains, soiling, or any other degradation that may occur to it.
  - b. Graphic designs reflective of an approved development project and/or the Town's logo and tag line "Miami Lakes, Growing Beautifully" shall be exempt from Chapter 13 Article IX of the Land Development Code and instead may be permitted as authorized by the Town Manager or his/her designee. Garish and neon colors of any proposed graphics, and any associated lighting thereto shall be prohibited.
- (2) Permanent perimeter fencing. All projects required to provide permanent fencing around the perimeter of a residential subdivision or other nonresidential development, pursuant to the Town's Land Development Code, or as otherwise required by development order, shall secure the necessary permits, install the perimeter fence and receive approved final inspections prior to the issuance of any other permit for construction.
- (3) Demolition permits. All properties subject to demolition permits must be secured by fencing as described in Section 13-1702 above and additionally comply with any applicable provisions of the *Florida Building Code*, as it relates to demolition permit requirements. The required perimeter fence shall be installed on the front, sides and rear lot lines.
- (4) Condition. All fencing required pursuant to this article shall be maintained in good condition throughout the duration that such fencing is required to be installed and maintained. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours.
- (5) Perimeter fencing shall not block site visibility triangles at intersections and driveway entrances.
- (6) Except as may be provided for by Chapter 13 of the Town's Land Development Code, all fencing regulated by this article shall be free and clear of any graphic designs or advertising except as permitted by the Town Manager pursuant to paragraph (1)b above.
- (7) Term. Any fencing required by this article shall fully comply with all provisions of the *Florida Building Code*, and remain in place through completion of construction, or until re-occupancy of a vacant/unoccupied property, unless otherwise exempted by the town's building official. Additional protective safeguards may be required where the town identifies a nuisance.

16-33 Property conditions.

The following standards shall apply to construction sites as regulated by this article.

- (1) Debris and scrap materials. All construction sites and vacant/unoccupied properties shall be maintained free of debris and scrap materials, however such material may be held in approved containers.
- (2) Restoration. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.

16-34 Construction operations.

All construction sites unless otherwise exempted by the Building Official, shall conform to the following:

- (1) Construction access. Access points by construction vehicles shall be identified as part of the construction staging plan for town approval at the time a permit is issued for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.
- (2) Staging. Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

- (3) Materials. Materials or vehicles shall not be parked, placed, or stored on public right-of-way under the jurisdiction of the town except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on right-of-way with permission of the public works director.

16-35      Preemption. Chapter 8, Building Code, of Miami-Dade County's Code of Ordinances shall have preemptive authority over Chapter 13, Land Development Code, of the Town's Code of Ordinances.



## **Town of Miami Lakes Memorandum**

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**To:** Chairman Rodriguez and Board Members

**From:** Darby DelSalle, Planning Director

**Subject:** Construction Sites and Abandoned Properties

**Date:** June 20, 2017

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### **Recommendation:**

Staff recommends approval of the proposed ordinance that improves the aesthetics and mitigates the impact of construction sites and abandoned properties to preserve property values and quality of life by requiring a site management plan, temporary fencing and establishing property standards that shall apply to construction sites and vacant/unoccupied properties.

### **Background:**

The aim of the proposed ordinance is to respond to concerns raised by the residents of the Town as reflected in separate motions of the Town Council on October 4, 2016 and December 6, 2016, as they relate to construction sites and abandoned/vacant/unoccupied properties. The proposed ordinance provides measures that seek to manage potential impacts of a construction sites such as securing the perimeter of the site with fencing, dust control, site access, construction phasing, and staging of equipment. The ordinance requires development projects to provide a detailed construction staging and management plan prior to issuance of building permits including the erection of fencing prior to the commencement of any construction activity. The ordinance also provides for the securing and screening of abandoned properties to mitigate against any deleterious impact that may result from their abandonment.

### **Attachments:**

[Ordinance](#)

ORDINANCE NO. 17- \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTY; CREATING ARTICLE 3, CONSTRUCTION SITES AND ABANDONED PROPERTY, IN CHAPTER 16, NUISANCES; CREATING SITE MANAGEMENT PROVISIONS FOR SAME; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on October 4, 2016, the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of abandoned “eye sore” properties that, as a result of their neglect and abandonment, may harm the property values of property owners in the Town of Miami Lakes; and

**WHEREAS**, on December 6, 2016; the Town Council directed the Town Manager to prepare an ordinance that would properly address the screening of properties under construction, the impact of which may have a negative impact on adjacent properties; and

**WHEREAS**, in fulfillment of those two directives, this ordinance provides for screening of such properties described herein and provides for other operational standards which further the Town Council’s intent; and

**WHEREAS**, on June \_\_\_\_\_, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

**WHEREAS**, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amendment.** Article III, Construction Sites and Abandoned Properties, in Chapter 16, Nuisances, is hereby created as provided at Attachment “A.”

**Section 3. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember \_\_\_\_\_, who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

## FIRST READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

## SECOND READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## EXHIBIT A

### PROPOSED ORDINANCE

#### CHAPTER 16 – NUISANCES

\* \* \*

#### ARTICLE III. - CONSTRUCTION SITES AND VACATED/UNOCCUPIED PROPERTIES

16-30 Definitions. For the purpose of this section, the following definitions shall apply:

Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements.

Vacated/unoccupied property shall mean lands improved with a structure or building that have otherwise gone unoccupied for a period of six (6) months or more. Any determination of vacant/unoccupied property shall be evaluated separate from any determination or review of conforming status.

Permanent perimeter fence shall mean any fencing required at or around the perimeter of a property pursuant to the Town's Land Development Code or as part of a development order, for a residential subdivision or nonresidential property.

Property shall mean all lands within the perimeter of a residential subdivision, or vacant unoccupied property, or that portion of a vacant commercial or mixed-use property subject to construction.

Temporary perimeter fence shall mean any fencing other than that which is defined as permanent perimeter fence, which is otherwise required to be installed pursuant to this Division. Temporary perimeter fences shall be required to comply with all applicable standards of the *Florida Building Code* as may be amended from time to time.

16-31 Site Management Plan.

No permit for construction shall be issued within the town without an approved site management plan that shall be submitted to the town's building department for review and approval prior to issuance of the construction permit. The site management plan shall include a site plan of the structure to be constructed, location of utilities, material storage location, location of dumpsters and method of securing trash during hurricane season, and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, and a construction schedule.

16-32 Fencing.

(1) Temporary Perimeter Fencing Required. All construction sites, other than those explicitly exempted, shall provide, at a minimum, six (6) foot chain link fencing with green nylon mesh or silk material running the full height and length of the fence, around the entire perimeter of the property prior to, and during all phases of, the construction. A building permit for the perimeter fencing is required, and the temporary perimeter fence must be installed, inspected, and permit finalized by the building department prior to initiating all other construction. Such fencing, as described in this subsection, shall not be required at those portions of the property where a

permanent perimeter fence was issued a building permit, was installed, and received final inspection.

- a. All screening shall be maintained in good condition and free of tears, graffiti, stains, soiling, or any other degradation that may occur to it.
  - b. Graphic designs reflective of an approved development project and/or the Town's logo and tag line "Miami Lakes, Growing Beautifully" may be permitted as authorized by the Town Manager or his/her designee. Garish and neon colors of any proposed graphics, and any associated lighting thereto shall be prohibited.
- (2) Permanent perimeter fencing. All projects required to provide permanent fencing around the perimeter of a residential subdivision or other nonresidential development, pursuant to the Town's Land Development Code, or as otherwise required by development order, shall secure the necessary permits, install the perimeter fence and receive approved final inspections prior to the issuance of any other permit for construction.
  - (3) Demolition permits. All properties subject to demolition permits must be secured by fencing as described in Section 13-1702 above and additionally comply with any applicable provisions of the *Florida Building Code*, as it relates to demolition permit requirements. The required perimeter fence shall be installed on the front, sides and rear lot lines.
  - (4) Vacant/unoccupied property. Vacant/unoccupied property shall be enclosed with a temporary six (6) foot fence if it is determined by the Town Manager or his/her designee that in so doing, the best interests of the Town are served. This provision does not preclude a property owner from voluntarily erecting a perimeter fence during such time the property is vacant/unoccupied. The fencing shall include a green mesh or silk covering the full height and length of the temporary constructions fence. A Building Permit is required.
  - (5) Condition. All fencing required pursuant to this Division shall be maintained in good condition throughout the duration that such fencing is required to be installed and maintained. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours.
  - (6) Perimeter fencing shall not block site visibility triangles at intersections and driveway entrances.
  - (7) Except as may be provided for by Chapter 13 of the Town's Land Development Code, all fencing regulated by this Division shall be free and clear of any graphic designs or advertising except as permitted by the Town Manager pursuant to paragraph (1)b above.
  - (8) Term. Any fencing required by this section shall fully comply with all provisions of the *Florida Building Code*, and remain in place through completion of construction, or until re-occupancy of a vacant/unoccupied property, unless otherwise exempted by the town's building official. Additional protective safeguards may be required where the town identifies a nuisance.

#### 16-33 Property conditions.

The following standards shall apply to construction sites and vacant/unoccupied properties as regulated by this Division.

- (1) Debris and scrap materials. All construction sites and vacant/unoccupied properties shall be maintained free of debris and scrap materials.
- (2) Dust, dirt, and particulate matter. All construction sites shall be controlled for dust, dirt, and particulate matter. The methodology used shall be sufficient to ensure prompt and efficient maintenance of the site in order to control of the dust, dirt and particulate matter.
- (3) Restoration. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.

16-34      Construction operations.

All construction sites unless otherwise exempted by the Building Official, shall conform to the following:

- (1) Construction access. Access points by construction vehicles shall be identified as part of the construction staging plan for town approval at the time a permit is issued for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.
- (2) Staging. Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.
- (3) Construction trailers. Building permit required. Construction trailers for staging area shall be permitted solely during construction and shall be removed prior to the issuance of the final certificate of occupancy.
- (4) Materials. Materials or vehicles shall not be parked, placed, or stored on public right-of-way under the jurisdiction of the town except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on right-of-way with permission of the appropriate public works department, with a time limit reported to council and public.



## **Town of Miami Lakes Memorandum**

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**To: The Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Mixed Use Height Exceptions**  
**Date: 9/5/2017**

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### **Recommendation:**

Staff finds the attached ordinance, requiring public hearings before the Town Council for vertically mixed-use zoning applications within the Town Center (TC) zoning district that include a request for height exemptions, will achieve the Town Council's expressed desire to increase awareness of such development projects.

### **Background:**

The Town Council approved the creation of the TC District on September 1st, 2015. The TC district, permits a maximum height of five (5) stories, however it encourages the creation of mixed-use spaces by creating an incentive to allow for two (2) additional stories subject to an administrative site plan review.

The remaining zoning districts which permit such heights in excess of five (5) stories already require a hearing before the Town Council if they exceed five (5) acres or 50,000 square feet of floor area; which is likely to be the case on most buildings of over five (5) stories in height.

On July 25, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to review the Land Development Code (LDC) and return with provisions that would ensure development proposals pursuing the mixed-use development exemption to exceed five (5) stories are subject to Town Council's consideration and final approval authority. The idea is to increase awareness of such projects by requiring them to be subject to a public hearing where the community can be heard by the Town Council.

The proposed ordinance amends those portions of Division 26, TC District, of the LDC, as it relates to mixed-use development incentives; and transfer the decision for applications to the Town Council after a public hearing. A more detailed analysis is provided at the attached Staff Analysis and Recommendation report.

### **ATTACHMENTS:**

Description

Staff Report

Ordinance



Department of Planning, Zoning and Code Compliance  
6601 Main Street • Miami Lakes, Florida 33014  
Office: (305) 364-6100 • Fax: (305) 558-8511  
Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Town Council

**From:** Darby P. Delsalle, AICP, Planning Director

**Subject:** Developer Information Sessions

**Date:** August XX, 2017

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AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO CHAPTER 13, LAND DEVELOPMENT CODE, AMENDING SECTIONS 13-870 AND 13-881, RELATING TO DEVELOPMENT APPROVAL PROCEDURES FOR BUILDING HEIGHTS EXCEEDING FIVE (5) STORIES IN THE TC, TOWN CENTER DISTRICT, REQUIRING SUCH DEVELOPMENT REQUESTS BE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid & Collazo)

### A. BACKGROUND

On July 25, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to review the Land Development Code (LDC) and return with provisions that would ensure development proposals that exceed five (5) stories are subject to Town Council's consideration and final approval authority. The request was driven in part by concerns that the public was not appropriately aware of pending projects of a significant nature. The concern arose in the wake of a development cycle more active than the Town was traditionally accustomed to experiencing. The expressed desire of the Council at that meeting was to capture any zoning development requests for buildings that exceed five (5) stories, that might otherwise be reviewed and approved/denied administratively, to be presented at a public hearing before the Council for their final determination.

Only the TC, Town Center district, permits site plan requests that exceed five (5) stories to proceed solely administratively for review and final decision-making authority. The remaining districts which permit such heights in excess of five (5) stories already require a hearing before the Town Council. As such, the proposed ordinance only seeks to amend those portions of

Division 26, TC Town Center District, of the LDC, as it relates to building heights and decision granting authority for applications within the TC district. Please note, jurisdictional appeal of a site plan administrative decision rests with the Town Council at a duly noticed quasi-judicial public hearing.

Adopted on September 1<sup>st</sup>, 2015, Division 26 (Ord. No. 15-184) provided, among other provisions, for all site plans within the TC district to be reviewed and to be issued final development orders by the Administrative Official. This approach was and still is considered common protocol for mixed use districts where the desire is to encourage development towards a focalized district. The TC district permits by-right heights of five (5) stories with an inducement to go to six (6) and seven (7) stories provided the development integrates commercial and residential uses into the same building. Through implementation of this “bonus floor(s)” incentive, the new TC code, in effect, became more restrictive than the BU-2, Special Business District, it replaced. The BU-2 district permitted seven (7) stories by-right, yet it still required Council consideration for final decision of the site plan.

Regardless of the prior BU-2 and current TC district provisions, the predominate existing development of multifamily, commercial, and mixed uses within the Town ranges from three (3) to four (4) stories. In the eyes of the community at large, this became the expected form of development. This perception, however, does not undo the potential right to additional floor heights as currently and previously permitted by code. By providing language that ensures all development in excess of five (5) stories is heard at a public hearing before the Council, potential development rights are not infringed upon and a mechanism is offered that ensures a venue for public awareness and input regarding such development.

## **B. STAFF RECOMMENDATION**

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance requiring buildings in excess of five (5) stories to require a public hearing before the Town Council.

## **C. ANALYSIS**

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

### **1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* See Section “A”, Background, of this report. Policy 1.1.2 provides for all of the Land Use Categories within the Comprehensive Master Development Plan, including the Town Center Mixed Use designation. That designation permits heights of up to seven (7) stories. Further, Objective 1.2 provides underlying intent to ensure the LDC’s appropriately regulate the use of land reflective of the community’s desires. The amendment achieves that

intent by providing a public forum whereby the public has a venue that contributes to awareness and input regarding such developments.

Objective 1.2: LAND DEVELOPMENT CODE

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

*Finding:* Complies

**2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts.

*Finding:* Complies.

**3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis:* See Section "A", Background, of this report. The Town has recently experienced a volume of development application requests that are not typical to its past experiences since incorporation in the year 2000. This increase in activity has brought attention of the Town's residents regarding such zoning application requests and their desire to have more information. In response, the Town Council directed the Town Manager to prepare regulations that ensure developments that exceed five (5) floors are heard before the Town Council for their final decision.

*Finding:* Complies.

**4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* The proposed ordinance does not change the permitted use of land. It includes in the review procedure the final consideration by the Town Council for approval, approval with conditions, or denial of the application request.

*Finding:* Complies.

**5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water**

**and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* See Section “A”, Background, of this report. The proposed ordinance does not change permitted uses or development parameters. As such, it does not impact the above systems.

*Finding:* Complies.

- 6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

*Analysis:* See Section “A”, Background, of this report. The proposed ordinance does not change permitted uses or development parameters. As such, it does not impact the above systems.

*Finding:* Complies.

- 7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Section “A”, Background, of this report and Criterion 1 of this Analysis section. The proposed ordinance does not change permitted uses or development parameters. Consistent with other zoning districts within the town, the proposed ordinance does require building requests in excess of five (5) stories in the TC district to be subject to public hearing before the Town Council. Such hearings may prove to better serve the general welfare by facilitating greater awareness of the project and potentially increase public participation in the development review process.

*Finding:* Complies.

- 8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Section “A”, Background, and Criteria 1 and 7 of this report. All site plan applications are cost recovery with the full cost of the request borne by the applicant. The proposed ordinance may result in some additional cost to the applicant/developer as a result of required advertising, staff report preparation, and hearing time. However, it is believed the sessions may have the potential of increasing public awareness and participation in the development review process. Staff believes this increased participation outweighs the impact of the additional costs.

*Finding:* Complies.

- 9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Section “A”, Background, and Criteria 7 and 8 of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The



proposed ordinance provides a venue to increase the public's awareness of pending zoning applications.

*Finding:* Complies.

**10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed ordinance is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

*Finding:* As determined by the Town Council.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO CHAPTER 13, LAND DEVELOPMENT CODE, AMENDING SECTIONS 13-870 AND 13-881, RELATING TO DEVELOPMENT APPROVAL PROCEDURES FOR BUILDING HEIGHTS EXCEEDING FIVE (5) STORIES IN THE TC, TOWN CENTER DISTRICT, REQUIRING SUCH DEVELOPMENT REQUESTS BE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Cid & Collazo)**

**WHEREAS**, on September 1, 2015, the Town Council adopted Ordinance No. 15-184, creating Division 26, Town Center District (the “TC District”), within Chapter 13 of the Town’s Code of Ordinances, titled Land Development Code (the “LDC”); and

**WHEREAS**, Section 13-870, of the LDC permits building heights of five (5) stories, and allows for up to seven (7) stories when the building encompasses mix-uses within the TC District.;

**WHEREAS**, Section 13-881, of the LDC authorizes all TC District final site plan reviews and approvals to be processed administratively; and

**WHEREAS**, on July 25, 2017, during a Town Council Meeting, the Town Council directed the Town Manager to explore an amendment to the LDC, requiring Town Council review and approval for developments that exceed five (5) stories. ; and

**WHEREAS, the LDC only permits buildings in excess of five (5) stories to be build within the TC District; and**

**WHEREAS**, Exhibit “A” is reflective of the Town Council’s desire as expressed at their July 25, 2017, Regular Council meeting; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the LDC

and recommends approval, as set forth in the Staff Analysis and Recommendation dated September 5, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

**WHEREAS**, on September, \_\_\_\_\_ 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

**WHEREAS**, \_\_\_\_\_ 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at

Exhibit "A," and as incorporated herein.

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

### FIRST READING

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Tim Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid \_\_\_\_\_

Vice Mayor Nelson Rodriguez \_\_\_\_\_

Councilmember Luis Collazo \_\_\_\_\_

Councilmember Tim Daubert \_\_\_\_\_

Councilmember Ceasar Mestre \_\_\_\_\_

Councilmember Frank Mingo \_\_\_\_\_

Councilmember Marilyn Ruano \_\_\_\_\_

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Manny Cid  
Mayor

Attest:

\_\_\_\_\_  
Gina M. Inguanzo  
Town Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
Town Attorney

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.  
Omitted portions of this ordinance are shown as “\* \* \*”.



EXHIBIT A  
AMENDMENT

Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

DIVISION 26. - TC TOWN CENTER DISTRICT

\* \* \*

Sec. 13-870. - Building height.

The maximum height of buildings shall not exceed ~~be~~ five (5) stories, except where a building includes vertically integrated mixed uses, in which case, subject to Town Council review and approval, the maximum height shall not exceed ~~be~~ seven (7) stories. However, where a building includes frontage on a Type 1 Street, the ground floor must be occupied with active uses, as defined in this Code, in order to qualify for height above five (5) stories. Height may be limited by the Opa-Locka Airport Zoning Ordinance of Miami-Dade County.

\* \* \*

Sec. 13-881. - Site plan review standards.

All site plan reviews and approvals decisions in the TC District shall be by the Administrative Official except for plans that include height requests that exceed five (5) stories, which shall require final site plan review and approval by the Town Council. ~~Any~~ ~~The~~ Administrative Official ~~may~~ decision to approve, approve with modifications and/or conditions, or deny a site plan. ~~Affected parties may be appealed the Administrative Official's action on a site plan application to the Town Council in accordance with Section 13-310.~~ In addition to other applicable standards in this Code, including those in Section 13-304(h), in order to be approved, a site plan must meet the following criteria:

\* \* \*





## Town of Miami Lakes Memorandum

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**To:** The Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Developer Information Sessions  
**Date:** 9/5/2017

---

### **Recommendation:**

Staff recommends approval of the ordinance requiring developer information sessions for certain planning and zoning applications to increase public awareness and encourage public participation in the development process.

### **Background:**

On February 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore and return to a workshop with recommendations regarding information sessions conducted by an applicant/developer that has made a zoning application subject to public hearing before the Town Council. The idea was to create an informal setting where the public could learn about a proposed project in advance of its presentation at a Town Council hearing. There currently are no provisions within the Land Development Code that provide for such informational sessions.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach regarding "Developer Information Sessions." After some discussion, consensus was reached requiring such sessions to be conducted in an informal format, at a site preferably at, or as near as possible to, the project site or if not feasible, at Town Hall; for all projects subject to Town Council consideration that involve projects that are equal to or greater than 50 residential units and/or 50,000 square feet of commercial area. The cost of the developer information session will be paid by the developer. Any staff or direct costs incurred by the Town will be reimbursed by the developer through the cost recovery process. The proposed ordinance is reflective of that consensus.

On July 18, 2017 the Planning and Zoning Board, acting in their capacity as the Local Planning agency, voted to recommend approval of the proposed ordinance with the following additional language to be incorporated therein:

(4) All cost related to the "developer information session" shall be borne by the applicant.

On July 25, 2015, the Town Council moved this item on first reading without any changes. If it is the Council's desire to incorporate the Planning and Zoning Board's additional clause, it must be moved into the proposed ordinance prior to adoption. For ease of use, the ordinance attached to this memo incorporates the additional clause.

**ATTACHMENTS:**

Description

**First Reading Submittal**

**Ordinance**



## **Town of Miami Lakes Memorandum**

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**To:** The Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Developer Information Sessions  
**Date:** 7/25/2017

---

### **Recommendation:**

Staff recommends approval of the ordinance requiring developer information sessions for certain planning and zoning applications to increase public awareness and encourage public participation in the development process.

### **Background:**

On February 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore and return to a workshop with recommendations regarding information sessions conducted by an applicant/developer that has made a zoning application subject to public hearing before the Town Council. The idea was to create an informal setting where the public could learn about a proposed project in advance of its presentation at a Town Council hearing. There currently are no provisions within the Land Development Code that provide for such informational sessions.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach regarding "Developer Information Sessions." After some discussion, consensus was reached requiring such sessions to be conducted in an informal format, at a site preferably at, or as near as possible to, the project site or if not feasible, at Town Hall; for all projects subject to Town Council consideration that involve projects that are equal to or greater than 50 residential units and/or 50,000 square feet of commercial area. The cost of the developer information session will be paid by the developer. Any staff or direct costs incurred by the Town will be reimbursed by the developer through the cost recovery process. The proposed ordinance is reflective of that consensus.

On July 19, 2017, this item was brought before the Town's Planning and Zoning Board, and in its function as the Town's Local Planning Agency ("LPA"), voted to recommend the approval of this Ordinance.

### **ATTACHMENTS:**

Description

Staff Report

Ordinance



Department of Planning, Zoning and Code Compliance  
6601 Main Street • Miami Lakes, Florida 33014  
Office: (305) 364-6100 • Fax: (305) 558-8511  
Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Town Council  
**From:** Darby P. Delsalle, AICP, Planning Director  
**Subject:** Developer Information Sessions  
**Date:** July 7, 2017

---

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-301, RELATING TO DEVELOPMENT APPROVAL PROCEDURES; CREATING SECTION 13-301(s) REQUIRING DEVELOPER INFORMATION SESSIONS FOR ZONING APPLICATIONS OF A SPECIFIED DENSITY/INTENSITY THAT ARE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Mingo, Cid, Collazo, Daubert, Lama, Mestre & Rodriguez)

### **A. BACKGROUND**

On February 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore and return to a workshop with recommendations regarding information sessions conducted by an applicant/developer that has made a zoning application subject to public hearing before the Town Council. The idea was to create an informal setting where the public could learn about a proposed project in advance of its presentation at a Town Council hearing. There currently are no provisions within the LDC's that provide for such informational sessions.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach regarding "Developer Information Sessions." After some discussion, consensus was reached requiring such sessions to be conducted in an informal format, at a site preferably at, or as near as possible to, the project site; for all projects subject to Town Council consideration that involve projects that are equal to or greater than 50 residential units and/or 50,000 square feet of commercial area. The proposed ordinance is reflective of that consensus.

## **B. STAFF RECOMMENDATION**

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending notification requirements for zoning applications.

## **C. ANALYSIS**

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

### **1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* Although the Comprehensive Plan does not specifically address public hearing requirements, Objective 1.2 provides underlying intent to ensure the LDC's appropriately regulate the use of land reflective of the community's desires. This is achieved by providing an informational session to the residents of Miami Lakes so that they may be more aware of developments to which they may have a particular interest.

#### **Objective 1.2: LAND DEVELOPMENT CODE**

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

*Finding:* Complies

### **2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts.

*Finding:* Complies.

### **3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis:* See Section "A", Background, of this report. The Town has recently experienced a volume of development application requests that are not typical to its past experiences since incorporation in the year 2000. This increase in activity has brought attention of the Town's residents regarding such zoning application requests and their desire to have more

information. In response, the Town Council directed the Town Manager to prepare recommendations on providing for developer information sessions, conducted in an informal setting, to increase resident awareness of pending projects. Those recommendations were presented at a Town Council Workshop on June 27, 2017. The attached proposed ordinance is reflective of those discussions.

*Finding:* Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* The proposed ordinance does not change the permitted use of land.

*Finding:* Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* The proposed ordinance does not impact the above systems.

*Finding:* Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

*Analysis:* The proposed ordinance does not impact the above systems.

*Finding:* Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Section "A", Background, of this report. The proposed ordinance provides for a developer information session in advance of any Town Council hearing that may result in a final order for a project equal to or greater than 50 residential units and/or 50,000 square feet of commercial area. Such sessions should prove to better serve the general welfare by facilitating greater awareness of the project and potentially increase public participation in the development review process.

*Finding:* Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Section “A”, Background, and Criterion 7 of this report. The proposed ordinance may result in some additional cost to the applicant/developer making a zoning request as a result of advertising in the Miami Laker Community Paper, as well as those potential costs associated with hosting a session. However, it is believed the sessions may have the potential of increasing public awareness and participation in the development review process. Staff believes this increased participation outweighs the impact of the additional costs.

*Finding:* Complies.

**9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Section “A”, Background, and Criterion 7 and 8, of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The proposed ordinance provides a venue to increase the public’s awareness of pending zoning applications in an informal setting.

*Finding:* Complies.

**10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed ordinance is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

*Finding:* As determined by the Town Council.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-301, RELATING TO DEVELOPMENT APPROVAL PROCEDURES; CREATING SECTION 13-301(s), REQUIRING DEVELOPER INFORMATION SESSIONS FOR ZONING APPLICATIONS OF A SPECIFIED DENSITY/INTENSITY THAT ARE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, section 13-301 of the Town's Land Development Code provides for generalized development review procedures related to zoning development applications subject to administrative or public hearing decisions; and

**WHEREAS**, the intent of such procedures is to ensure that an orderly and predictable review process is available for zoning development applications; and

**WHEREAS**, on February 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore the feasibility of amending our code to require zoning development applications, of determined densities and intensities, to provide as part of their application an educational forum regarding their development application to the public prior to Town Council consideration; and

**WHEREAS**, the intent of the forum is to keep the residents of the Town abreast to any pending zoning development applications that are to be considered by the Town Council; and

**WHEREAS**, on June 27, 2017, at a publicly advertised workshop, Town Staff presented its findings and recommendation to the Town Council regarding implementation of educational forums, titled "Developer Information Sessions," upon which the Town Council considered and expressed its desire to enact; and



**WHEREAS**, the amendment at Exhibit “A” is reflective of the Town Council’s desire as expressed at the June 27, 2017, workshop; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the Land Development Code and recommends approval, as set forth in the Staff Analysis and Recommendation dated July 7, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (the “LPA”) for the Town pursuant to Section 163.3174, Florida Statutes; and

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval, with a suggested amendment regarding developers responsibility to bear the costs of the educational forums to the Miami Lakes Town Council; and

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

**WHEREAS**, the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and

**WHEREAS**, on September \_\_\_\_, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed

ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A," and as incorporated herein.

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town

Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on first reading this \_\_\_\_\_ day of July, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

---

Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE III. - DEVELOPMENT APPROVAL PROCEDURES

\* \* \*

#### Section 13-301 Generally

\* \* \*

(s) Developer Information Sessions. Development applications involving a rezoning, Future Land Use Map amendment, conditional uses of 4,000 square feet or more, and site plans and variances for projects involving 50 or more residential units or more than 50,000 square feet of commercial floor area, shall be required to conduct a Developer Information Session. Such Sessions shall conform to the following provisions:

- (1) At a minimum, courtesy public notice shall include posting on the Town website and relevant social media sites utilized by the Town, notice to Home Owner Associations registered with the Town, and a 2"x 4" ad in the Miami Laker community newspaper. Notice shall be provided a minimum of 10 days in advance of the session. Failure to receive a courtesy public notice has no impact on the session. All expense of notification shall be borne by the developer/applicant.
- (2) When feasible, Developer Information Sessions should be held at the project site or nearest available facility thereto. Other acceptable sites include Town Hall, other Town facilities, or other off-site locations in close proximity to the project site.
- (3) Developer Information Sessions are not quasi-judicial proceedings. They are intended to be informal meetings aimed at providing the community with information regarding the project and an opportunity for the developer/applicant to answer questions about the project. The meetings shall be coordinated and conducted by the applicant with input from Town staff. Staff participation is limited as a resource to share Town plans and projects that may be relevant to the project.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 13-301, RELATING TO DEVELOPMENT APPROVAL PROCEDURES; CREATING SECTION 13-301(s), REQUIRING DEVELOPER INFORMATION SESSIONS FOR ZONING APPLICATIONS OF A SPECIFIED DENSITY/INTENSITY THAT ARE SUBJECT TO TOWN COUNCIL CONSIDERATION; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, section 13-301 of the Town's Land Development Code provides for generalized development review procedures related to zoning development applications subject to administrative or public hearing decisions; and

**WHEREAS**, the intent of such procedures is to ensure that an orderly and predictable review process is available for zoning development applications; and

**WHEREAS**, on February 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore the feasibility of amending our code to require zoning development applications of determined densities and intensities, to provide as part of their application an educational forum regarding their development application to the public prior to Town Council consideration; and

**WHEREAS**, the intent of the forum is to keep the residents of the Town abreast to any pending zoning development applications that are to be considered by the Town Council; and

**WHEREAS**, on June 27, 2017, at a publicly advertised workshop, Town Staff presented its findings and recommendation to the Town Council regarding implementation of educational forums, titled "Developer Information Sessions," upon which the Town Council considered and expressed its desire to enact; and

**WHEREAS**, the amendment at Exhibit “A” is reflective of the Town Council’s desire as expressed at the June 27, 2017, workshop; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the Land Development Code and recommends approval, as set forth in the Staff Analysis and Recommendation dated July 7, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (the “LPA”) for the Town pursuant to Section 163.3174, Florida Statutes; and

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval, with a suggested amendment regarding developers responsibility to bear the costs of the educational forums to the Miami Lakes Town Council; and

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

**WHEREAS**, the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and



**WHEREAS**, on September 5, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A," and as incorporated herein.

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being

the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on first reading this \_\_\_\_\_ day of July, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

The foregoing ordinance was offered by Councilmember\_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Manny Cid  
MAYOR

Attest:

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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE III. - DEVELOPMENT APPROVAL PROCEDURES

\* \* \*

#### Section 13-301 Generally

\* \* \*

(s) *Developer Information Sessions.* Development applications involving a rezoning, Future Land Use Map amendment, conditional uses of 4,000 square feet or more, and site plans and variances for projects involving 50 or more residential units or more than 50,000 square feet of commercial floor area, shall be required to conduct a Developer Information Session. Such Sessions shall conform to the following provisions:

- (1) At a minimum, courtesy public notice shall include posting on the Town website and relevant social media sites utilized by the Town, notice to Home Owner Associations registered with the Town, and a 2"x 4" ad in the Miami Laker community newspaper. Notice shall be provided a minimum of 10 days in advance of the session. Failure to receive a courtesy public notice has no impact on the session. All expense of notification shall be borne by the developer/applicant.
- (2) When feasible, Developer Information Sessions should be held at the project site or nearest available facility thereto. Other acceptable sites include Town Hall, other Town facilities, or other off-site locations in close proximity to the project site.
- (3) Developer Information Sessions are not quasi-judicial proceedings. They are intended to be informal meetings aimed at providing the community with information regarding the project and an opportunity for the developer/applicant to answer questions about the project. The meetings shall be coordinated and conducted by the applicant with input from Town staff. Staff participation is limited as a resource to share Town plans and projects that may be relevant to the project.



## Town of Miami Lakes Memorandum

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**To:** The Honorable Mayor and Council Members  
**From:** Alex Rey, Town Manager  
**Subject:** Mailers and Notices  
**Date:** 9/5/2017

---

### **Recommendation:**

Staff recommends approval of the attached ordinance amending notification requirements for planning and zoning applications to increase public awareness and encourage public participation in the development process.

### **Background:**

On March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore mailed notice requirements of the Land Development Code (LDC) and return to a workshop with recommendations that would enhance the reach, quality, and clarity of such notices. The request was driven by concerns that the public was not appropriately aware of pending projects in the wake of a development cycle more active than the Town was traditionally accustomed to experiencing.

As it currently stands, section 13-309 of the Town's LDC's requires development subject to public hearing to include a mailed notice to property owners within 500 feet of the proposed project. If the request includes a rezoning or amendment to the Future Land Use Map, such notice radius is required to be 2,500 feet. Projects where only administrative level review is required, notice is sent to adjacent properties, except in the case of an administrative (de minimis) variance, where no notice is required at all. The Town Council wanted to provide a broader overall reach of the notice, and provide it in a format that clearly identified the nature of proposed development.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach to mailing notification, including changing the format to a post card, utilization of plain language to describe a project, and radii options that are scaled according to intensity of development. These notices will only be sent to areas inside the boundaries of Miami Lakes. After some discussion, consensus was reached to utilize the easier to read post card notice, plain speech descriptions of the application request, and the following notice radii:

	<u>RADIUS</u>
--	---------------

<u>APPLICATION INTENSITY</u>	<u>IN FEET</u>	By utilizing the above schedule,
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>	
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>	
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>	
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>	
<u>Administrative (De Minimis) Variances</u>	<u>Adjacent Properties</u>	

notification is now reflective of the size of the proposed development and its potential impact to the surrounding community.

On July 18, 2017 the Planning and Zoning Board, acting in their capacity as the Local Planning agency, voted to recommend approval of the proposed ordinance. On July 25, 2015, the Town Council moved this item on first reading without any changes. The item is as it was submitted on July 25, 2017.

#### **ATTACHMENTS:**

Description

**First Reading Submittal**

**Ordinance**



## Town of Miami Lakes Memorandum

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**To:** The Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Mailers and Notices  
**Date:** 7/25/2017

---

### **Recommendation:**

Staff recommends approval of the attached ordinance amending notification requirements for planning and zoning applications to increase public awareness and encourage public participation in the development process.

### **Background:**

On March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore mailed notice requirements of the Land Development Code (LDC) and return to a workshop with recommendations that would enhance the reach, quality, and clarity of such notices. The request was driven by concerns that the public was not appropriately aware of pending projects in the wake of a development cycle more active than the Town was traditionally accustomed to experiencing.

As it currently stands, section 13-309 of the Town's LDC's requires development subject to public hearing to include a mailed notice to property owners within 500 feet of the proposed project. If the request includes a rezoning or amendment to the Future Land Use Map, such notice radius is required to be 2,500 feet. Projects where only administrative level review is required, notice is sent to adjacent properties, except in the case of an administrative (de minimis) variance, where no notice is required at all. The Town Council wanted to provide a broader overall reach of the notice, and provide it in a format that clearly identified the nature of proposed development.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach to mailing notification, including changing the format to a post card, utilization of plain language to describe a project, and radii options that are scaled according to intensity of development. These notices will only be sent to areas inside the boundaries of Miami Lakes. After some discussion, consensus was reached to utilize the easier to read post card notice, plain speech descriptions of the application request, and the following notice radii:



On July 19, 2017, this item was brought before the Town's Planning and Zoning Board, and in its function as the Town's Local Planning Agency ("LPA"), voted to recommend the approval of this Ordinance.

<u>APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>
<u>Administrative (De Minimis) Variances</u>	<u>Adjacent Properties</u>

By  
utilizing  
the above  
schedule,

notification is now reflective of the size of the proposed development and its potential impact to the surrounding community.

#### **ATTACHMENTS:**

Description

**Staff Report**

**Ordinance**



Department of Planning, Zoning and Code Compliance  
6601 Main Street • Miami Lakes, Florida 33014  
Office: (305) 364-6100 • Fax: (305) 558-8511  
Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Town Council  
**From:** Darby P. Delsalle, AICP, Planning Director  
**Subject:** Mail Notification Requirements  
**Date:** July 14, 2017

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AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Rodriguez, Cid, Collazo, Daubert, Lama, Mestre & Mingo)

### A. BACKGROUND

On March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore mailed notice requirements of the Land Development Code (LDC) and return to a workshop with recommendations that would enhance the reach, quality, and clarity of such notices. The request was driven by concerns that the public was not appropriately aware of pending projects in the wake of a development cycle more active than the Town was traditionally accustomed to experiencing.

As it currently stands, section 13-309 of the Town's LDC's requires development subject to public hearing to include a mailed notice to property owners within 500 feet of the proposed project. If the request includes a rezoning or amendment to the Future Land Use Map, such notice radius is required to be 2,500 feet. Projects eligible for approval at an administrative level require little more than notice to adjacent properties, and in the case of an administrative (de minimis) variance, no notice at all. The Town Council wanted to provide a broader overall reach of the notice, and provide it in a format that clearly identified the nature of proposed development.

On June 27, 2017, at a publicly advertised workshop of the Town Council, staff presented a recommended approach to mailing notification, including changing the format to a post card, utilization of plain language to describe a project, and radii options that are scaled according to

intensity of development. After some discussion, consensus was reached to utilize the easier to read post card notice, plain speech descriptions of the application request, and the following notice radii:

<u>APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>
<u>Administrative (De Minimis) Variances</u>	<u>Adjacent Properties</u>

By utilizing the above schedule, notification is now reflective of the size of the proposed development and its potential impact to the surrounding community.

## **B. STAFF RECOMMENDATION**

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending notification requirements for zoning applications.

## **C. ANALYSIS**

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

### **1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* Although the Comprehensive Plan does not specifically address public hearing requirements, Objective 1.2 provides underlying intent to ensure the LDC's appropriately regulate the use of land reflective of the community's desires. This is achieved by providing greater notice to the residents of Miami Lakes so that they may be more aware of developments in which they may have a particular interest.

#### **Objective 1.2: LAND DEVELOPMENT CODE**

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new

development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

*Finding:* Complies

**2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts.

*Finding:* Complies.

**3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis:* See Section "A", Background, of this report. The Town has recently experienced a volume of development application requests that are not typical to its past experiences since incorporation in the year 2000. This increase in activity has brought attention to the Town's notification procedures related to zoning application requests. In response, the Town Council directed the Town Manager to prepare recommendations on notice procedures that are more inclusive and easier to understand. Those recommendations were presented a Town Council Workshop on June 27, 2017. The attached proposed ordinance is reflective of those discussions.

*Finding:* Complies.

**4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* The proposed ordinance does not change the permitted use of land.

*Finding:* Complies.

**5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* The proposed ordinance does not impact the above systems.

*Finding:* Complies.

**6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

*Finding:* Complies.

**7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Section “A”, Background, of this report. The proposed ordinance provides enhanced notice procedures with a greater notification requirement than currently exists. Such enhancements should prove to better serve the general welfare by facilitating greater awareness and potentially increased public participation in the development review process.

*Finding:* Complies.

**8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Section “A”, Background, and Criterion 7 of this report. The proposed ordinance may result in some additional cost to the applicant/developer making a zoning request, however the enhanced notice procedure has the potential of increasing public participation in the development review process. It is believed that increased participation outweighs the impact of the additional notification costs.

*Finding:* Complies.

**9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Section “A”, Background, and Criterion 7 and 8, of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The proposed ordinance provides a broader reach for mailed notices related to zoning applications in a format that is easier to understand.

*Finding:* Complies.

**10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

*Finding:* As determined by the Town Council.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, section 13-309 of the Town’s Land Development Code(“LDC”) provides for courtesy mail notification requirements related to development approval application subject to administrative or public hearing decisions; and

**WHEREAS**, the intent of such notice is to keep the residents of the Town abreast to any decisions that may be rendered regarding development approval applications; and

**WHEREAS**, on March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore enhancements to the mailed notice requirements of the LDC in order to improve its function, and convene a workshop to discuss solutions.; and

**WHEREAS**, on June 27, 2017, at a publicly advertised workshop, staff presented mailing notification radius options and design options to the Town Council, upon which the Council considered and provided feedback; and

**WHEREAS**, the amendment at Exhibit “A” is reflective of the Town Counsel’s direction as expressed at the June 27, 2017, workshop; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the LDC and recommends approval, as set forth in the Staff Analysis and Recommendation dated July XX, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to §163.3174, Florida Statutes; and

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board in its capacity as the Local Planning Agency, and pursuant to §163.3174 Florida Statutes reviewed the proposed amendment and recommended approval to the Miami Lakes Town Council; and

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for consideration of adoption; and

**WHEREAS**, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the LDC found in Subsection 13-306(b) of the Town Code; and

**WHEREAS**, on September \_\_\_\_, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein

by this reference.

**Section 2. Findings.** The Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A"

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.



**FIRST READING**

**FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on first reading this \_\_\_\_\_ day of July, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

The foregoing ordinance was offered by Councilmember\_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE III. - DEVELOPMENT APPROVAL PROCEDURES

\* \* \*

Sec. 13-309. - Public hearing and notice.

- (a) *Generally*. When an application for development approval is subject to a public hearing, the Administrative Official shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:

\* \* \*

- (4) Describe the nature, scope and purpose of the proposal being noticed using terms and phrases clearly understandable to the general public.

\* \* \*

- (f) *Comprehensive Plan*. Notice for public hearings on applications for amendments to the Comprehensive Plan shall be noticed as follows:
- (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. In addition, property owners of record within a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice.
  - (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.
- (g) *Official Zoning Map and this chapter*. Notice for public hearings on applications for amendments to this chapter and the Official Zoning Map shall be noticed as follows:

- (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. In addition, property owners of record within a 5,000 ~~2,500~~ foot radius of the property subject to map amendments shall be provided mailed notice.
- (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.
- (h) *Other development requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to variances, conditional uses, site plans, plats, and vacations shall be noticed as follows:
  - (1) Posting of the property subject to the application ten days prior to the hearing.
  - (2) Courtesy mailed notice to the property owners of record shall be required according to the following schedule ten days prior to the hearing unless the application includes a request for amendment to the Comprehensive Plan or Future Land Use Map in which case section 13-309(f) shall apply, or if the request includes an amendment to the Town's Land Development Code or Official Zoning Map in which case section 13-309(g) shall apply: ~~within a 500-foot radius of the property which is the subject of the application.~~

<u>PUBLIC HEARING APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>

- (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.

- (4) Where an application is made for a commercial development permit approval other than rezoning, including, but not limited to commercial variances, commercial conditional uses, commercial site plans, commercial plats, and commercial vacations, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town. The notice requirements herein are intended to supplement and the minimum requirements of the Florida Statutes, and are not in conflict with Florida Statutes.
- (i) Administrative decisions variance. Administrative action on applications for administrative decisions, including but not limited to administrative variances, administrative site plan decisions, and administrative conditional use decisions ~~variances~~ shall be noticed as follows:
- (1) Posting of the property subject to the application 30 days prior to final administrative action.
  - (2) Courtesy Mailed notice to the property owners of record shall be noticed adjacent to the property which is the subject of the application 30 days prior to final administrative action according to the following schedule:-

<u>ADMINISTRATIVE APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>
<u>Administrative (De Minimus) Variances</u>	<u>Adjacent Properties</u>

- (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.
- (4) Where an application is made for a commercial administrative variance, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile

radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town. The notice requirements herein are intended to be supplemental to the minimum requirements of the Florida Statutes

~~(j) *Administrative site plan.* Administrative action on applications for administrative site plan requests shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application 15 days prior to final administrative action.~~
- ~~(2) Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall also require mailed notice to the property owners of record adjacent to the property which is the subject of the application 15 days prior to final administrative action.~~
- ~~(3) Where an application is made for a commercial administrative site plan, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.~~

~~(k) *Minor conditional uses.* Administrative action on applications for minor conditional uses pursuant to Section 13-204(q) and Section 13-302(g) shall be noticed as follows:~~

- ~~(1) Posting of the property subject to the application 15 days prior to final administrative action.~~
- ~~(2) Mailed notice to the property owners of record within 500 feet of the property which is the subject to the application 15 days prior to final administrative action.~~
- ~~(3) Where an application is made for a commercial minor conditional use, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association,~~

~~condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.~~

- (j) *Appeals of action by the Administrative Official.* An applicant seeking an appeal of the action by the Administrative Official to the Town Council shall be responsible for notice of the appeal by mailed notice to property owners of record within a 500-foot radius of the property subject to the application and posting of the property subject to the application.
- (k) *Applicant bears burden of cost.* All costs of publication, mailing and posting shall be borne by the applicant.
- (n) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements nonconflicting with the Florida Statutes.

TABLE 13-309. NOTICE REQUIREMENTS				
Permit	Notice Section	Posted	Published	Mailed
Appeal of Administrative Official	13-309(l)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Variance <sup>^</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Other development permits (i.e., site plan, conditional uses, plats, vacations) <sup>^</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Minor conditional uses <sup>^</sup>	13-309(k)	15 days prior to administrative action	Not applicable	500 feet radius
Administrative variance <sup>^</sup>	13-309(i)	30 days prior to administrative action	30 days prior to administrative action	Adjacent property owners
Administrative site plan <sup>^</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Not applicable
Administrative site plan* <sup>^</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Adjacent property owners



Comprehensive Development Master Plan—Town	<del>13-</del> 309(f)(1)	No	F.S. § <del>163.3184</del>	2,500-foot radius for Map amendment
Comprehensive Development Master Plan—Owner	<del>13-</del> 309(f)(2)	30 days prior to hearing for Map amendment	F.S. § <del>163.3184</del>	2,500-foot radius for Map amendment
Land Development Code (Ch. 13)—Town	<del>13-</del> 309(g)(1)	No	F.S. § <del>166.041</del>	2,500-foot radius for Map amendment
Land Development Code (Ch. 13)—Owner	<del>13-</del> 309(g)(2)	30 days prior to hearing for Map amendment	F.S. § <del>166.041</del>	2,500-foot radius for Map amendment

-

~~\* Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall require notification of adjacent property owners.~~

~~^ Courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile radius of the property which is the subject of the application. This shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.~~

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING NOTICE REQUIREMENTS; AMENDING SECTION 13-309, REQUIRING MAILING NOTIFICATION DISTANCES REFLECTIVE OF SCALE OF DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, section 13-309 of the Town’s Land Development Code(“LDC”) provides for courtesy mail notification requirements related to development approval application subject to administrative or public hearing decisions; and

**WHEREAS**, the intent of such notice is to keep the residents of the Town abreast to any decisions that may be rendered regarding development approval applications; and

**WHEREAS**, on March 7, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore enhancements to the mailed notice requirements of the LDC in order to improve its function, and convene a workshop to discuss solutions; and

**WHEREAS**, on June 27, 2017, at a publicly advertised workshop, staff presented mailing notification radius options and design options to the Town Council, upon which the Council considered and provided feedback; and

**WHEREAS**, the amendment at Exhibit “A” is reflective of the Town Counsel’s direction as expressed at the June 27, 2017, workshop; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the LDC and recommends approval, as set forth in the Staff Analysis and Recommendation dated July XX, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to §163.3174, Florida Statutes; and

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board in its capacity as the Local Planning Agency, and pursuant to §163.3174 Florida Statutes reviewed the proposed amendment and recommended approval to the Miami Lakes Town Council; and

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for consideration of adoption; and

**WHEREAS**, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the LDC found in Subsection 13-306(b) of the Town Code; and

**WHEREAS**, on September 5, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** The Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A."

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

### **FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on first reading this \_\_\_\_\_ day of July, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

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## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE III. - DEVELOPMENT APPROVAL PROCEDURES

\* \* \*

Sec. 13-309. - Public hearing and notice.

- (a) *Generally*. When an application for development approval is subject to a public hearing, the Administrative Official shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:

\* \* \*

- (4) Describe the nature, scope and purpose of the proposal being noticed using terms and phrases clearly understandable to the general public.

\* \* \*

- (f) *Comprehensive Plan*. Notice for public hearings on applications for amendments to the Comprehensive Plan shall be noticed as follows:
- (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. In addition, property owners of record within a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice.
  - (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 163.3184. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within



- a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.
- (g) *Official Zoning Map and this chapter*. Notice for public hearings on applications for amendments to this chapter and the Official Zoning Map shall be noticed as follows:
- (1) Text or map amendments initiated by the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. In addition, property owners of record within a 5,000 ~~2,500~~ foot radius of the property subject to map amendments shall be provided mailed notice.
  - (2) Text or map amendments initiated by a property owner or governmental agency other than the Town shall be noticed by publication in accordance with the provisions of F.S. § 166.041. Map amendments shall also be noticed by posting of the property, subject to the application, 30 days prior to the hearing. In addition, property owners of record within a 5,000 ~~2,500~~-foot radius of the property subject to map amendments shall be provided mailed notice 30 days prior to the hearing.
- (h) *Other development requiring public hearing*. Public hearings on applications for development permit approvals other than rezoning, including, but not limited to variances, conditional uses, site plans, plats, and vacations shall be noticed as follows:
- (1) Posting of the property subject to the application ten days prior to the hearing.
  - (2) Courtesy mailed notice to the property owners of record shall be required according to the following schedule ten days prior to the hearing unless the application includes a request for amendment to the Comprehensive Plan or Future Land Use Map in which case section 13-309(f) shall apply, or if the request includes an amendment to the Town's Land Development Code or Official Zoning Map in which case section 13-309(g) shall apply: ~~within a 500-foot radius of the property which is the subject of the application.~~

<u>PUBLIC HEARING APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>

- (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.
- (4) Where an application is made for a commercial development permit approval other than rezoning, including, but not limited to commercial variances, commercial conditional uses, commercial site plans, commercial plats, and commercial vacations, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town. The notice requirements herein are intended to supplement and the minimum requirements of the Florida Statutes, and are not in conflict with Florida Statutes.
- (i) Administrative decisions ~~variance~~. Administrative action on applications for administrative decisions, including but not limited to administrative variances, administrative site plan decisions, and administrative conditional use decisions ~~variances~~ shall be noticed as follows:
- (1) Posting of the property subject to the application 30 days prior to final administrative action.
- (2) Courtesy mailed notice to the property owners of record shall be noticed adjacent to the property which is the subject of the application 30 days prior to final administrative action according to the following schedule:-

<u>ADMINISTRATIVE APPLICATION INTENSITY</u>	<u>RADIUS IN FEET</u>
<u>Greater than or equal to 100 Residential Units or 100,000 sq. ft. Commercial</u>	<u>5,000</u>
<u>50 to 99 Residential Units - 50,000 to 99,999 sq. ft. Commercial</u>	<u>2,500</u>
<u>20-49 Residential Units - 20,000 to 49,999 sq. ft. Commercial</u>	<u>1,000</u>
<u>Less than 20 Residential units or 20,000 sq. ft. Commercial</u>	<u>500</u>
<u>Administrative (De Minimus) Variances</u>	<u>Adjacent Properties</u>

- (3) Publication in the non-legal section of the local newspaper of general circulation that has been selected by the Town.
  - (4) Where an application is made for a commercial administrative variance, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town. The notice requirements herein are intended to be supplemental to the minimum requirements of the Florida Statutes
- ~~(j) *Administrative site plan.* Administrative action on applications for administrative site plan requests shall be noticed as follows:~~
- ~~(1) Posting of the property subject to the application 15 days prior to final administrative action.~~
  - ~~(2) Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall also require mailed notice to the property owners of record adjacent to the property which is the subject of the application 15 days prior to final administrative action.~~
  - ~~(3) Where an application is made for a commercial administrative site plan, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.~~
- ~~(k) *Minor conditional uses.* Administrative action on applications for minor conditional uses pursuant to Section 13-204(q) and Section 13-302(g) shall be noticed as follows:~~
- ~~(1) Posting of the property subject to the application 15 days prior to final administrative action.~~
  - ~~(2) Mailed notice to the property owners of record within 500 feet of the property which is the subject to the application 15 days prior to final administrative action.~~

- ~~(3) Where an application is made for a commercial minor conditional use, courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one-mile radius of the property which is the subject of the application. This subsection shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.~~
- (j) *Appeals of action by the Administrative Official.* An applicant seeking an appeal of the action by the Administrative Official to the Town Council shall be responsible for notice of the appeal by mailed notice to property owners of record within a 500-foot radius of the property subject to the application and posting of the property subject to the application.
- ~~(k)~~ *Applicant bears burden of cost.* All costs of publication, mailing and posting shall be borne by the applicant.
- ~~(n) Provisions of Florida Statutes to prevail.~~ Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements nonconflicting with the Florida Statutes.

TABLE 13-309. NOTICE REQUIREMENTS

Permit	Notice Section	Posted	Published	Mailed
Appeal of Administrative Official	13-309(l)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Variance <sup>Δ</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Other development permits (i.e., site plan, conditional uses, plats, vacations) <sup>Δ</sup>	13-309(h)	10 days prior to hearing	10 days prior to hearing	500 feet radius
Minor conditional uses <sup>Δ</sup>	13-309(k)	15 days prior to administrative action	Not applicable	500 feet radius
Administrative variance <sup>Δ</sup>	13-309(i)	30 days prior to administrative action	30 days prior to administrative action	Adjacent property owners
Administrative site plan <sup>Δ</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Not applicable

Additions to the text are shown in underlined; deletions from the text are shown in ~~strikethrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

Administrative site plan* <sup>△</sup>	13-309(j)	15 days prior to administrative action	Not applicable	Adjacent property owners
Comprehensive Development Master Plan—Town	13-309(f)(1)	No	F.S. § 163.3184	2,500-foot radius for Map amendment
Comprehensive Development Master Plan—Owner	13-309(f)(2)	30 days prior to hearing for Map amendment	F.S. § 163.3184	2,500-foot radius for Map amendment
Land Development Code (Ch. 13)—Town	13-309(g)(1)	No	F.S. § 166.041	2,500-foot radius for Map amendment
Land Development Code (Ch. 13)—Owner	13-309(g)(2)	30 days prior to hearing for Map amendment	F.S. § 166.041	2,500-foot radius for Map amendment

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\*—Any administrative site plan application which encompasses two or more acres of land, proposes 50 or more dwelling units and/or 20,000 square feet or more of nonresidential building area shall require notification of adjacent property owners.

△—Courtesy mailed notice shall be provided to homeowners' and/or condominium associations and/or neighborhood organizations as defined in this code which are located within a one mile radius of the property which is the subject of the application. This shall not be construed to mean that notice must be provided to homeowners' and/or condominium associations located outside of the Town boundaries. A homeowners' association, condominium association, and/or neighborhood organization as defined in this code may request electronic notice in lieu of mailed notice. Notice by mailing and/or by electronic means is a courtesy only and no action taken by the Town shall be voided by the failure of a homeowners' and/or condominium association and/or neighborhood organization as defined in this code to receive such notice. The applicant shall be responsible for all notification costs as determined by the Town.



## **Town of Miami Lakes Memorandum**

---

**To: The Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Medical Marijuana**  
**Date: 9/5/2017**

---

### **Recommendation:**

Staff recommends approval of the ordinance banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto as provided for by Florida Statute 381.986(11) (b).

### **Background:**

On March 7, 2017, the Town Council adopted a moratorium on the issuance of any development orders pertaining to cannabis dispensaries, medical marijuana treatment facilities, and related independent testing laboratories related thereto. The action was taken in response to the adoption of Amendment 2 to the Florida Constitution entitled "Use of Marijuana for Debilitating Medical Conditions." The amendment expanded upon the legalized usage of low TCH cannabis and medical marijuana, and created new classes of uses to include medical marijuana treatment centers and testing laboratories. These amendments were in addition to prior laws initially adopted in 2014, then expanded in 2016 which provided for the limited use of low TCH cannabis and medical marijuana.

On June 23, 2017, the Governor of the State of Florida signed Senate Bill SB 8-A, affectively amending the Florida Statutes at Section 381.986, "Compassionate use of low-THC and medical cannabis", which, among other provisions, provided the rules by which local municipalities may regulate such uses covered by both the constitutional amendment and the prior legislation of 2014 and 2016. The State gave cities two options. The first option was to outright ban cannabis dispensaries and medical marijuana treatment centers. The second option was to permit such uses provided they are regulated no differently than pharmacies provided minimum distance separations from educational facilities are included. The attached ordinance is reflected of the "ban" option. A fuller description of the history and recommendation are provided at the attached Staff Analysis and Recommendation Report.

On July 18, 2017 the Planning and Zoning Board, acting in their capacity as the Local Planning agency, voted to recommend approval of the proposed ordinance. On July 25, 2015, the Town Council moved this item on first reading without any changes. The item is as it was submitted on July 25, 2017

**ATTACHMENTS:**

Description

**First Reading Submittal**

**Ordinance - Final**



## **Town of Miami Lakes Memorandum**

---

**To:** The Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Medical Marijuana  
**Date:** 7/25/2017

---

### **Recommendation:**

Staff recommends approval of the ordinance banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto as provided for by Florida Statute 381.986(11) (b).

### **Background:**

On March 7, 2017, the Town Council adopted a moratorium on the issuance of any development orders pertaining to cannabis dispensaries, medical marijuana treatment facilities, and related independent testing laboratories related thereto. The action was taken in response to the adoption of Amendment 2 to the Florida Constitution entitled "Use of Marijuana for Debilitating Medical Conditions." The amendment expanded upon the legalized usage of low TCH cannabis and medical marijuana, and created new classes of uses to include medical marijuana treatment centers and testing laboratories. These amendments were in addition to prior laws initially adopted in 2014, then expanded in 2016 which provided for the limited use of low TCH cannabis and medical marijuana.

On June 23, 2017, the Governor of the State of Florida signed Senate Bill SB 8-A, affectively amending the Florida Statutes at Section 381.986, "Compassionate use of low-THC and medical cannabis", which, among other provisions, provided the rules by which local municipalities may regulate such uses covered by both the constitutional amendment and the prior legislation of 2014 and 2016. The State gave cities two options. The first option was to outright ban cannabis dispensaries and medical marijuana treatment centers. The second option was to permit such uses provided they are regulated no differently than pharmacies provided minimum distance separations from educational facilities are included. The attached ordinance is reflected of the "ban" option. A fuller description of the history and recommendation are provided at the attached Staff Analysis and Recommendation Report.

On July 19, 2017, this item was brought before the Town's Planning and Zoning Board, and in its function as



the Town's Local Planning Agency ("LPA"), voted to recommend the approval of this Ordinance.

**ATTACHMENTS:**

Description

**Staff Report**

**Senate Bill SB-8**

**Ordinance - First Reading**



Department of Planning, Zoning and Code Compliance  
6601 Main Street • Miami Lakes, Florida 33014  
Office: (305) 364-6100 • Fax: (305) 558-8511  
Website: [www.miamilakes-fl.gov](http://www.miamilakes-fl.gov)

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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Town Council

**From:** Darby P. Delsalle, AICP, Planning Director

**Subject:** Cannabis Dispensaries and Medical Marijuana Treatment Facilities

**Date:** July 14, 2017

---

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### A. BACKGROUND

The legal status of the medical use of marijuana has been evolving since 2014 when the Florida Legislature enacted laws regarding low-TCH cannabis and medical marijuana, entitled the “Compassionate Medical Cannabis Act of 2014” (codified at Section 381.986, Florida Statutes) (“Act”). The Act permitted the use of a non-euphoric strain of cannabis for narrowly defined medical conditions typically associated with seizures and chemotherapy. The Act authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, low THC cannabis and operate “Dispensing Organizations” for individuals with certain specified serious ailments. The Legislature again in 2016 amended the Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions to ease their suffering.

On November 8, 2016, Florida’s voters approved an amendment to the Florida Constitution, entitled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”)”. Amendment 2 had the net effect of further expanding the legal use of medical marijuana throughout the State of Florida for those individuals with specified debilitating conditions. It also authorized the cultivation, processing, distribution, and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers.” This matter became the subject of a bill adopted by the Florida Legislature (SB 8-A) during their 2017 Special Session that,

among other provisions, outlined the conditions under which local municipalities may regulate the location of cannabis dispensaries and medical marijuana treatment centers. The legislation provided the option for municipalities to outright ban such uses within their territorial jurisdiction, or to permit them provided they were regulated in a manner similar to pharmacies, and provided for minimum distance separations of such uses from educational facilities. Town Staff's proposed ordinance is reflective of the ban option.

As a final note, the cultivation, processing, distribution, sale, and use of cannabis and marijuana in all its forms continues to be identified as illegal acts with the laws of the Federal Government of the United States of America.

## **B. STAFF RECOMMENDATION**

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto.

## **C. ANALYSIS**

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this proposed ordinance.

### **1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* Although the Comprehensive Plan does not specifically address uses presented in the proposed ordinance, Objective 1.2 provides underlying intent to ensure the LDC's appropriately regulate the use of land reflective of the community's desires. Notwithstanding the Federal Government's laws pertaining to marijuana and/or its derivative products, supporting such uses within the Town's LDC may result in impacts that are not entirely foreseeable at this time.

#### **Objective 1.2: LAND DEVELOPMENT CODE**

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

*Finding:* Complies

### **2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts. Further, the proposed ordinance is consistent with adopted Florida Senate Bill SB 8-A as provided at Section 381.986, Florida Statutes.

*Finding:* Complies.

3. **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis:* See Section "A", Background, of this report. The Background section of this report provides a fuller accounting of the evolution of legalized low THC cannabis and medical marijuana within the State of Florida. The Town's current LDC's do not address the uses associated with those identified in the State of Florida's Statutes. If the LDC goes unamended, the Town is left with little authority to prevent such uses from locating within its territorial jurisdiction. The most recent legislation, SB 8-A at Section 381.986, permits a municipality to ban cannabis dispensaries and medical marijuana treatment facilities outright within their territorial jurisdiction. The statute is silent as to independent testing facilities. For consistency across the Town regulations, Staff also includes those facilities as part of the ban.

*Finding:* Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* See Section "A", Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses is eliminated.

*Finding:* Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* The proposed ordinance does not impact the above systems.

*Finding:* Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

*Analysis:* The proposed ordinance does not impact the above systems.

*Finding:* Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Section “A”, Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses and any adverse effect is eliminated.

*Finding:* Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Section “A”, Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses is eliminated.

*Finding:* Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Section “A”, Background, of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. By banning those uses associated with low TCH cannabis and medical marijuana, any potential unintended impacts of locating those uses in the Town are negated.

*Finding:* Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

*Finding:* As determined by the Town Council.

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1  
2 An act relating to medical use of marijuana; providing  
3 legislative intent; amending s. 212.08, F.S.;  
4 providing an exemption from the state tax on sales,  
5 use, and other transactions for marijuana and  
6 marijuana delivery devices used for medical purposes;  
7 amending s. 381.986, F.S.; providing, revising, and  
8 deleting definitions; providing qualifying medical  
9 conditions for a patient to be eligible to receive  
10 marijuana or a marijuana delivery device; providing  
11 requirements for designating a qualified physician or  
12 medical director; providing criteria for certification  
13 of a patient for medical marijuana treatment by a  
14 qualified physician; providing for certain patients  
15 registered with the medical marijuana use registry to  
16 be deemed qualified; requiring the Department of  
17 Health to monitor physician registration and  
18 certifications in the medical marijuana use registry;  
19 requiring the Board of Medicine and the Board of  
20 Osteopathic Medicine to create a physician  
21 certification pattern review panel; providing  
22 rulemaking authority to the department and the boards;  
23 requiring the department to establish a medical  
24 marijuana use registry; specifying entities and  
25 persons who have access to the registry; providing  
26 requirements for registration of, and maintenance of  
27 registered status by, qualified patients and  
28 caregivers; providing criteria for nonresidents to  
29 prove residency for registration as a qualified

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patient; defining the term "seasonal resident";  
authorizing the department to suspend or revoke the  
registration of a patient or caregiver under certain  
circumstances; providing requirements for the issuance  
of medical marijuana use registry identification  
cards; requiring the department to issue licenses to a  
certain number of medical marijuana treatment centers;  
providing for license renewal and revocation;  
providing conditions for change of ownership;  
providing for continuance of certain entities  
authorized to dispense low-THC cannabis, medical  
cannabis, and cannabis delivery devices; requiring a  
medical marijuana treatment center to comply with  
certain standards in the production and distribution  
of edibles; requiring the department to establish,  
maintain, and control a computer seed-to-sale  
marijuana tracking system; requiring background  
screening of owners, officers, board members, and  
managers of medical marijuana treatment centers;  
requiring the department to establish protocols and  
procedures for operation, conduct periodic  
inspections, and restrict location of medical  
marijuana treatment centers; providing a limit on  
county and municipal permit fees; authorizing counties  
and municipalities to determine the location of  
medical marijuana treatment centers by ordinance under  
certain conditions; providing penalties; authorizing  
the department to impose sanctions on persons or  
entities engaging in unlicensed activities; providing

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that a person is not exempt from prosecution for certain offenses and is not relieved from certain requirements of law under certain circumstances; providing for certain school personnel to possess marijuana pursuant to certain established policies and procedures; providing that certain research institutions may possess, test, transport, and dispose of marijuana subject to certain conditions; providing applicability; amending ss. 458.331 and 459.015, F.S.; providing additional acts by a physician or an osteopathic physician which constitute grounds for denial of a license or disciplinary action to which penalties apply; creating s. 381.988, F.S.; providing for the establishment of medical marijuana testing laboratories; requiring the Department of Health, in collaboration with the Department of Agriculture and Consumer Services and the Department of Environmental Protection, to develop certification standards and rules; providing limitations on the acquisition and distribution of marijuana by a testing laboratory; providing an exception for transfer of marijuana under certain conditions; requiring a testing laboratory to use a department-selected computer tracking system; providing grounds for disciplinary and administrative action; authorizing the department to refuse to issue or renew, or suspend or revoke, a testing laboratory license; creating s. 381.989, F.S.; defining terms; directing the department and the Department of Highway Safety and Motor Vehicles to institute public



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education campaigns relating to cannabis and marijuana and impaired driving; requiring evaluations of public education campaigns; authorizing the department and the Department of Highway Safety and Motor Vehicles to contract with vendors to implement and evaluate the campaigns; amending ss. 385.211, 499.0295, and 893.02, F.S.; conforming provisions to changes made by the act; creating s. 1004.4351, F.S.; providing a short title; providing legislative findings; defining terms; establishing the Coalition for Medical Marijuana Research and Education within the H. Lee Moffitt Cancer Center and Research Institute, Inc.; providing a purpose for the coalition; establishing the Medical Marijuana Research and Education Board to direct the operations of the coalition; providing for the appointment of board members; providing for terms of office, reimbursement for certain expenses, and meetings of the board; authorizing the board to appoint a coalition director; prescribing the duties of the coalition director; requiring the board to advise specified entities and officials regarding medical marijuana research and education in this state; requiring the board to annually adopt a Medical Marijuana Research and Education Plan; providing requirements for the plan; requiring the board to issue an annual report to the Governor and the Legislature by a specified date; requiring the Department of Health to submit reports to the board containing specified data; specifying responsibilities

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of the H. Lee Moffitt Cancer Center and Research  
Institute, Inc.; amending s. 1004.441, F.S.; revising  
definition; amending s. 1006.062, F.S.; requiring  
district school boards to adopt policies and  
procedures for access to medical marijuana by  
qualified patients who are students; providing  
emergency rulemaking authority; providing for venue  
for a cause of action against the department;  
providing for defense against certain causes of  
action; directing the Department of Law Enforcement to  
develop training for law enforcement officers and  
agencies; amending s. 385.212, F.S.; renaming the  
department's Office of Compassionate Use; providing  
severability; providing a directive to the Division of  
Law Revision and Information; providing  
appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative intent.—It is the intent of the  
Legislature to implement s. 29, Article X of the State  
Constitution by creating a unified regulatory structure. If s.  
29, Article X of the State Constitution is amended or a  
constitutional amendment related to cannabis or marijuana is  
adopted, this act shall expire 6 months after the effective date  
of such amendment.

Section 2. Present paragraph (1) of subsection (2) of  
section 212.08, Florida Statutes, is redesignated as paragraph  
(m), and a new paragraph (1) is added to that subsection, to

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read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(2) EXEMPTIONS; MEDICAL.—

(1) Marijuana and marijuana delivery devices, as defined in s. 381.986, are exempt from the taxes imposed under this chapter.

Section 3. Section 381.986, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 381.986, F.S., for present text.)

381.986 Medical use of marijuana.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Caregiver" means a resident of this state who has agreed to assist with a qualified patient's medical use of marijuana, has a caregiver identification card, and meets the requirements of subsection (6).

(b) "Chronic nonmalignant pain" means pain that is caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition.

(c) "Close relative" means a spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption.

(d) "Edibles" means commercially produced food items made

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with marijuana oil, but no other form of marijuana, that are produced and dispensed by a medical marijuana treatment center.

(e) "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.

(f) "Marijuana" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(g) "Marijuana delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(h) "Marijuana testing laboratory" means a facility that collects and analyzes marijuana samples from a medical marijuana treatment center and has been certified by the department pursuant to s. 381.988.

(i) "Medical director" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or osteopathic physician under chapter 459 and is in

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204 compliance with the requirements of paragraph (3)(c).

205 (j) "Medical use" means the acquisition, possession, use,  
206 delivery, transfer, or administration of marijuana authorized by  
207 a physician certification. The term does not include:

208 1. Possession, use, or administration of marijuana that was  
209 not purchased or acquired from a medical marijuana treatment  
210 center.

211 2. Possession, use, or administration of marijuana in a  
212 form for smoking, in the form of commercially produced food  
213 items other than edibles, or of marijuana seeds or flower,  
214 except for flower in a sealed, tamper-proof receptacle for  
215 vaping.

216 3. Use or administration of any form or amount of marijuana  
217 in a manner that is inconsistent with the qualified physician's  
218 directions or physician certification.

219 4. Transfer of marijuana to a person other than the  
220 qualified patient for whom it was authorized or the qualified  
221 patient's caregiver on behalf of the qualified patient.

222 5. Use or administration of marijuana in the following  
223 locations:

224 a. On any form of public transportation, except for low-THC  
225 cannabis.

226 b. In any public place, except for low-THC cannabis.

227 c. In a qualified patient's place of employment, except  
228 when permitted by his or her employer.

229 d. In a state correctional institution, as defined in s.  
230 944.02, or a correctional institution, as defined in s. 944.241.

231 e. On the grounds of a preschool, primary school, or  
232 secondary school, except as provided in s. 1006.062.

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233 f. In a school bus, a vehicle, an aircraft, or a motorboat,  
234 except for low-THC cannabis.

235 (k) "Physician certification" means a qualified physician's  
236 authorization for a qualified patient to receive marijuana and a  
237 marijuana delivery device from a medical marijuana treatment  
238 center.

239 (l) "Qualified patient" means a resident of this state who  
240 has been added to the medical marijuana use registry by a  
241 qualified physician to receive marijuana or a marijuana delivery  
242 device for a medical use and who has a qualified patient  
243 identification card.

244 (m) "Qualified physician" means a person who holds an  
245 active, unrestricted license as an allopathic physician under  
246 chapter 458 or as an osteopathic physician under chapter 459 and  
247 is in compliance with the physician education requirements of  
248 subsection (3).

249 (n) "Smoking" means burning or igniting a substance and  
250 inhaling the smoke.

251 (o) "Terminal condition" means a progressive disease or  
252 medical or surgical condition that causes significant functional  
253 impairment, is not considered by a treating physician to be  
254 reversible without the administration of life-sustaining  
255 procedures, and will result in death within 1 year after  
256 diagnosis if the condition runs its normal course.

257 (2) QUALIFYING MEDICAL CONDITIONS.—A patient must be  
258 diagnosed with at least one of the following conditions to  
259 qualify to receive marijuana or a marijuana delivery device:

260 (a) Cancer.

261 (b) Epilepsy.

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(c) Glaucoma.

(d) Positive status for human immunodeficiency virus.

(e) Acquired immune deficiency syndrome.

(f) Post-traumatic stress disorder.

(g) Amyotrophic lateral sclerosis.

(h) Crohn's disease.

(i) Parkinson's disease.

(j) Multiple sclerosis.

(k) Medical conditions of the same kind or class as or  
comparable to those enumerated in paragraphs (a)-(j).

(l) A terminal condition diagnosed by a physician other  
than the qualified physician issuing the physician  
certification.

(m) Chronic nonmalignant pain.

(3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.-

(a) Before being approved as a qualified physician, as  
defined in paragraph (1)(m), and before each license renewal, a  
physician must successfully complete a 2-hour course and  
subsequent examination offered by the Florida Medical  
Association or the Florida Osteopathic Medical Association which  
encompass the requirements of this section and any rules adopted  
hereunder. The course and examination shall be administered at  
least annually and may be offered in a distance learning format,  
including an electronic, online format that is available upon  
request. The price of the course may not exceed \$500. A  
physician who has met the physician education requirements of  
former s. 381.986(4), Florida Statutes 2016, before the  
effective date of this section, shall be deemed to be in  
compliance with this paragraph from the effective date of this

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act until 90 days after the course and examination required by  
this paragraph become available.

(b) A qualified physician may not be employed by, or have  
any direct or indirect economic interest in, a medical marijuana  
treatment center or marijuana testing laboratory.

(c) Before being employed as a medical director, as defined  
in paragraph (1)(i), and before each license renewal, a medical  
director must successfully complete a 2-hour course and  
subsequent examination offered by the Florida Medical  
Association or the Florida Osteopathic Medical Association which  
encompass the requirements of this section and any rules adopted  
hereunder. The course and examination shall be administered at  
least annually and may be offered in a distance learning format,  
including an electronic, online format that is available upon  
request. The price of the course may not exceed \$500.

(4) PHYSICIAN CERTIFICATION.—

(a) A qualified physician may issue a physician  
certification only if the qualified physician:

1. Conducted a physical examination while physically  
present in the same room as the patient and a full assessment of  
the medical history of the patient.

2. Diagnosed the patient with at least one qualifying  
medical condition.

3. Determined that the medical use of marijuana would  
likely outweigh the potential health risks for the patient, and  
such determination must be documented in the patient's medical  
record. If a patient is younger than 18 years of age, a second  
physician must concur with this determination, and such  
concurrence must be documented in the patient's medical record.



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320 4. Determined whether the patient is pregnant and  
321 documented such determination in the patient's medical record. A  
322 physician may not issue a physician certification, except for  
323 low-THC cannabis, to a patient who is pregnant.

324 5. Reviewed the patient's controlled drug prescription  
325 history in the prescription drug monitoring program database  
326 established pursuant to s. 893.055.

327 6. Reviews the medical marijuana use registry and confirmed  
328 that the patient does not have an active physician certification  
329 from another qualified physician.

330 7. Registers as the issuer of the physician certification  
331 for the named qualified patient on the medical marijuana use  
332 registry in an electronic manner determined by the department,  
333 and:

334 a. Enters into the registry the contents of the physician  
335 certification, including the patient's qualifying condition and  
336 the dosage not to exceed the daily dose amount determined by the  
337 department, the amount and forms of marijuana authorized for the  
338 patient, and any types of marijuana delivery devices needed by  
339 the patient for the medical use of marijuana.

340 b. Updates the registry within 7 days after any change is  
341 made to the original physician certification to reflect such  
342 change.

343 c. Deactivates the registration of the qualified patient  
344 and the patient's caregiver when the physician no longer  
345 recommends the medical use of marijuana for the patient.

346 8. Obtains the voluntary and informed written consent of  
347 the patient for medical use of marijuana each time the qualified  
348 physician issues a physician certification for the patient,

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349 which shall be maintained in the patient's medical record. The  
350 patient, or the patient's parent or legal guardian if the  
351 patient is a minor, must sign the informed consent acknowledging  
352 that the qualified physician has sufficiently explained its  
353 content. The qualified physician must use a standardized  
354 informed consent form adopted in rule by the Board of Medicine  
355 and the Board of Osteopathic Medicine, which must include, at a  
356 minimum, information related to:

357 a. The Federal Government's classification of marijuana as  
358 a Schedule I controlled substance.

359 b. The approval and oversight status of marijuana by the  
360 Food and Drug Administration.

361 c. The current state of research on the efficacy of  
362 marijuana to treat the qualifying conditions set forth in this  
363 section.

364 d. The potential for addiction.

365 e. The potential effect that marijuana may have on a  
366 patient's coordination, motor skills, and cognition, including a  
367 warning against operating heavy machinery, operating a motor  
368 vehicle, or engaging in activities that require a person to be  
369 alert or respond quickly.

370 f. The potential side effects of marijuana use.

371 g. The risks, benefits, and drug interactions of marijuana.

372 h. That the patient's de-identified health information  
373 contained in the physician certification and medical marijuana  
374 use registry may be used for research purposes.

375 (b) If a qualified physician issues a physician  
376 certification for a qualified patient diagnosed with a  
377 qualifying medical condition pursuant to paragraph (2)(k), the

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physician must submit the following to the applicable board  
within 14 days after issuing the physician certification:

1. Documentation supporting the qualified physician's  
opinion that the medical condition is of the same kind or class  
as the conditions in paragraphs (2)(a)-(j).

2. Documentation that establishes the efficacy of marijuana  
as treatment for the condition.

3. Documentation supporting the qualified physician's  
opinion that the benefits of medical use of marijuana would  
likely outweigh the potential health risks for the patient.

4. Any other documentation as required by board rule.

The department must submit such documentation to the Coalition  
for Medical Marijuana Research and Education established  
pursuant to s. 1004.4351.

(c) A qualified physician may not issue a physician  
certification for more than three 70-day supply limits of  
marijuana. The department shall quantify by rule a daily dose  
amount with equivalent dose amounts for each allowable form of  
marijuana dispensed by a medical marijuana treatment center. The  
department shall use the daily dose amount to calculate a 70-day  
supply.

1. A qualified physician may request an exception to the  
daily dose amount limit. The request shall be made  
electronically on a form adopted by the department in rule and  
must include, at a minimum:

a. The qualified patient's qualifying medical condition.

b. The dosage and route of administration that was  
insufficient to provide relief to the qualified patient.

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c. A description of how the patient will benefit from an increased amount.

d. The minimum daily dose amount of marijuana that would be sufficient for the treatment of the qualified patient's qualifying medical condition.

2. A qualified physician must provide the qualified patient's records upon the request of the department.

3. The department shall approve or disapprove the request within 14 days after receipt of the complete documentation required by this paragraph. The request shall be deemed approved if the department fails to act within this time period.

(d) A qualified physician must evaluate an existing qualified patient at least once every 30 weeks before issuing a new physician certification. A physician must:

1. Determine if the patient still meets the requirements to be issued a physician certification under paragraph (a).

2. Identify and document in the qualified patient's medical records whether the qualified patient experienced either of the following related to the medical use of marijuana:

a. An adverse drug interaction with any prescription or nonprescription medication; or

b. A reduction in the use of, or dependence on, other types of controlled substances as defined in s. 893.02.

3. Submit a report with the findings required pursuant to subparagraph 2. to the department. The department shall submit such reports to the Coalition for Medical Marijuana Research and Education established pursuant to s. 1004.4351.

(e) An active order for low-THC cannabis or medical cannabis issued pursuant to former s. 381.986, Florida Statutes

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2016, and registered with the compassionate use registry before the effective date of this section, is deemed a physician certification, and all patients possessing such orders are deemed qualified patients until the department begins issuing medical marijuana use registry identification cards.

(f) The department shall monitor physician registration in the medical marijuana use registry and the issuance of physician certifications for practices that could facilitate unlawful diversion or misuse of marijuana or a marijuana delivery device and shall take disciplinary action as appropriate.

(g) The Board of Medicine and the Board of Osteopathic Medicine shall jointly create a physician certification pattern review panel that shall review all physician certifications submitted to the medical marijuana use registry. The panel shall track and report the number of physician certifications and the qualifying medical conditions, dosage, supply amount, and form of marijuana certified. The panel shall report the data both by individual qualified physician and in the aggregate, by county, and statewide. The physician certification pattern review panel shall, beginning January 1, 2018, submit an annual report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(h) The department, the Board of Medicine, and the Board of Osteopathic Medicine may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(5) MEDICAL MARIJUANA USE REGISTRY.—

(a) The department shall create and maintain a secure, electronic, and online medical marijuana use registry for physicians, patients, and caregivers as provided under this

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section. The medical marijuana use registry must be accessible to law enforcement agencies, qualified physicians, and medical marijuana treatment centers to verify the authorization of a qualified patient or a caregiver to possess marijuana or a marijuana delivery device and record the marijuana or marijuana delivery device dispensed. The medical marijuana use registry must also be accessible to practitioners licensed to prescribe prescription drugs to ensure proper care for patients before medications that may interact with the medical use of marijuana are prescribed. The medical marijuana use registry must prevent an active registration of a qualified patient by multiple physicians.

(b) The department shall determine whether an individual is a resident of this state for the purpose of registration of qualified patients and caregivers in the medical marijuana use registry. To prove residency:

1. An adult resident must provide the department with a copy of his or her valid Florida driver license issued under s. 322.18 or a copy of a valid Florida identification card issued under s. 322.051.

2. An adult seasonal resident who cannot meet the requirements of subparagraph 1. may provide the department with a copy of two of the following that show proof of residential address:

a. A deed, mortgage, monthly mortgage statement, mortgage payment booklet or residential rental or lease agreement.

b. One proof of residential address from the seasonal resident's parent, step-parent, legal guardian or other person with whom the seasonal resident resides and a statement from the

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person with whom the seasonal resident resides stating that the seasonal resident does reside with him or her.

c. A utility hookup or work order dated within 60 days before registration in the medical use registry.

d. A utility bill, not more than 2 months old.

e. Mail from a financial institution, including checking, savings, or investment account statements, not more than 2 months old.

f. Mail from a federal, state, county, or municipal government agency, not more than 2 months old.

g. Any other documentation that provides proof of residential address as determined by department rule.

3. A minor must provide the department with a certified copy of a birth certificate or a current record of registration from a Florida K-12 school and must have a parent or legal guardian who meets the requirements of subparagraph 1.

For the purposes of this paragraph, the term "seasonal resident" means any person who temporarily resides in this state for a period of at least 31 consecutive days in each calendar year, maintains a temporary residence in this state, returns to the state or jurisdiction of his or her residence at least one time during each calendar year, and is registered to vote or pays income tax in another state or jurisdiction.

(c) The department may suspend or revoke the registration of a qualified patient or caregiver if the qualified patient or caregiver:

1. Provides misleading, incorrect, false, or fraudulent information to the department;

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523 2. Obtains a supply of marijuana in an amount greater than  
524 the amount authorized by the physician certification;

525 3. Falsifies, alters, or otherwise modifies an  
526 identification card;

527 4. Fails to timely notify the department of any changes to  
528 his or her qualified patient status; or

529 5. Violates the requirements of this section or any rule  
530 adopted under this section.

531 (d) The department shall immediately suspend the  
532 registration of a qualified patient charged with a violation of  
533 chapter 893 until final disposition of any alleged offense.  
534 Thereafter, the department may extend the suspension, revoke the  
535 registration, or reinstate the registration.

536 (e) The department shall immediately suspend the  
537 registration of any caregiver charged with a violation of  
538 chapter 893 until final disposition of any alleged offense. The  
539 department shall revoke a caregiver registration if the  
540 caregiver does not meet the requirements of subparagraph  
541 (6)(b)6.

542 (f) The department may revoke the registration of a  
543 qualified patient or caregiver who cultivates marijuana or who  
544 acquires, possesses, or delivers marijuana from any person or  
545 entity other than a medical marijuana treatment center.

546 (g) The department shall revoke the registration of a  
547 qualified patient, and the patient's associated caregiver, upon  
548 notification that the patient no longer meets the criteria of a  
549 qualified patient.

550 (h) The department may adopt rules pursuant to ss.  
551 120.536(1) and 120.54 to implement this subsection.



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(6) CAREGIVERS.—

(a) The department must register an individual as a caregiver on the medical marijuana use registry and issue a caregiver identification card if an individual designated by a qualified patient meets all of the requirements of this subsection and department rule.

(b) A caregiver must:

1. Not be a qualified physician and not be employed by or have an economic interest in a medical marijuana treatment center or a marijuana testing laboratory.

2. Be 21 years of age or older and a resident of this state.

3. Agree in writing to assist with the qualified patient's medical use of marijuana.

4. Be registered in the medical marijuana use registry as a caregiver for no more than one qualified patient, except as provided in this paragraph.

5. Successfully complete a caregiver certification course developed and administered by the department or its designee, which must be renewed biennially. The price of the course may not exceed \$100.

6. Pass a background screening pursuant to subsection (9), unless the patient is a close relative of the caregiver.

(c) A qualified patient may designate no more than one caregiver to assist with the qualified patient's medical use of marijuana, unless:

1. The qualified patient is a minor and the designated caregivers are parents or legal guardians of the qualified patient;

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581       2. The qualified patient is an adult who has an  
582 intellectual or developmental disability that prevents the  
583 patient from being able to protect or care for himself or  
584 herself without assistance or supervision and the designated  
585 caregivers are the parents or legal guardians of the qualified  
586 patient; or

587       3. The qualified patient is admitted to a hospice program.

588       (d) A caregiver may be registered in the medical marijuana  
589 use registry as a designated caregiver for no more than one  
590 qualified patient, unless:

591       1. The caregiver is a parent or legal guardian of more than  
592 one minor who is a qualified patient;

593       2. The caregiver is a parent or legal guardian of more than  
594 one adult who is a qualified patient and who has an intellectual  
595 or developmental disability that prevents the patient from being  
596 able to protect or care for himself or herself without  
597 assistance or supervision; or

598       3. All qualified patients the caregiver has agreed to  
599 assist are admitted to a hospice program and have requested the  
600 assistance of that caregiver with the medical use of marijuana;  
601 the caregiver is an employee of the hospice; and the caregiver  
602 provides personal care or other services directly to clients of  
603 the hospice in the scope of that employment.

604       (e) A caregiver may not receive compensation, other than  
605 actual expenses incurred, for any services provided to the  
606 qualified patient.

607       (f) If a qualified patient is younger than 18 years of age,  
608 only a caregiver may purchase or administer marijuana for  
609 medical use by the qualified patient. The qualified patient may

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not purchase marijuana.

(g) A caregiver must be in immediate possession of his or her medical marijuana use registry identification card at all times when in possession of marijuana or a marijuana delivery device and must present his or her medical marijuana use registry identification card upon the request of a law enforcement officer.

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(7) IDENTIFICATION CARDS.—

(a) The department shall issue medical marijuana use registry identification cards for qualified patients and caregivers who are residents of this state, which must be renewed annually. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

1. The name, address, and date of birth of the qualified patient or caregiver.

2. A full-face, passport-type, color photograph of the qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles.

3. Identification as a qualified patient or a caregiver.

4. The unique numeric identifier used for the qualified patient in the medical marijuana use registry.

5. For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the

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caregiver is assisting.

6. The expiration date of the identification card.

(b) The department must receive written consent from a qualified patient's parent or legal guardian before it may issue an identification card to a qualified patient who is a minor.

(c) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing procedures for the issuance, renewal, suspension, replacement, surrender, and revocation of medical marijuana use registry identification cards pursuant to this section and shall begin issuing qualified patient identification cards by October 3, 2017.

(d) Applications for identification cards must be submitted on a form prescribed by the department. The department may charge a reasonable fee associated with the issuance, replacement, and renewal of identification cards. The department shall allocate \$10 of the identification card fee to the Division of Research at Florida Agricultural and Mechanical University for the purpose of educating minorities about marijuana for medical use and the impact of the unlawful use of marijuana on minority communities. The department shall contract with a third-party vendor to issue identification cards. The vendor selected by the department must have experience performing similar functions for other state agencies.

(e) A qualified patient or caregiver shall return his or her identification card to the department within 5 business days after revocation.

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(a) The department shall license medical marijuana treatment centers to ensure reasonable statewide accessibility

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and availability as necessary for qualified patients registered  
in the medical marijuana use registry and who are issued a  
physician certification under this section.

1. As soon as practicable, but no later than July 3, 2017,  
the department shall license as a medical marijuana treatment  
center any entity that holds an active, unrestricted license to  
cultivate, process, transport, and dispense low-THC cannabis,  
medical cannabis, and cannabis delivery devices, under former s.  
381.986, Florida Statutes 2016, before July 1, 2017, and which  
meets the requirements of this section. In addition to the  
authority granted under this section, these entities are  
authorized to dispense low-THC cannabis, medical cannabis, and  
cannabis delivery devices ordered pursuant to former s. 381.986,  
Florida Statutes 2016, which were entered into the compassionate  
use registry before July 1, 2017, and are authorized to begin  
dispensing marijuana under this section on July 3, 2017. The  
department may grant variances from the representations made in  
such an entity's original application for approval under former  
s. 381.986, Florida Statutes 2014, pursuant to paragraph (e).

2. The department shall license as medical marijuana  
treatment centers 10 applicants that meet the requirements of  
this section, under the following parameters:

a. As soon as practicable, but no later than August 1,  
2017, the department shall license any applicant whose  
application was reviewed, evaluated, and scored by the  
department and which was denied a dispensing organization  
license by the department under former s. 381.986, Florida  
Statutes 2014; which had one or more administrative or judicial  
challenges pending as of January 1, 2017, or had a final ranking

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697 within one point of the highest final ranking in its region  
698 under former s. 381.986, Florida Statutes 2014; which meets the  
699 requirements of this section; and which provides documentation  
700 to the department that it has the existing infrastructure and  
701 technical and technological ability to begin cultivating  
702 marijuana within 30 days after registration as a medical  
703 marijuana treatment center.

704 b. As soon as practicable, but no later than October 3,  
705 2017, the department shall license one applicant that is a  
706 recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82  
707 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1  
708 (D.D.C. 2011) and is a member of the Black Farmers and  
709 Agriculturalists Association-Florida Chapter. An applicant  
710 licensed under this sub-subparagraph is exempt from the  
711 requirements of subparagraphs (b)1. and (b)2.

712 c. As soon as practicable, but no later than October 3,  
713 2017, the department shall license applicants that meet the  
714 requirements of this section in sufficient numbers to result in  
715 10 total licenses issued under this subparagraph, while  
716 accounting for the number of licenses issued under sub-  
717 subparagraphs a. and b.

718 3. For up to two of the licenses issued under subparagraph  
719 2., the department shall give preference to applicants that  
720 demonstrate in their applications that they own one or more  
721 facilities that are, or were, used for the canning,  
722 concentrating, or otherwise processing of citrus fruit or citrus  
723 molasses and will use or convert the facility or facilities for  
724 the processing of marijuana.

725 4. Within 6 months after the registration of 100,000 active

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qualified patients in the medical marijuana use registry, the department shall license four additional medical marijuana treatment centers that meet the requirements of this section. Thereafter, the department shall license four medical marijuana treatment centers within 6 months after the registration of each additional 100,000 active qualified patients in the medical marijuana use registry that meet the requirements of this section.

5. Dispensing facilities are subject to the following requirements:

a. A medical marijuana treatment center may not establish or operate more than a statewide maximum of 25 dispensing facilities, unless the medical marijuana use registry reaches a total of 100,000 active registered qualified patients. When the medical marijuana use registry reaches 100,000 active registered qualified patients, and then upon each further instance of the total active registered qualified patients increasing by 100,000, the statewide maximum number of dispensing facilities that each licensed medical marijuana treatment center may establish and operate increases by five.

b. A medical marijuana treatment center may not establish more than the maximum number of dispensing facilities allowed in each of the Northwest, Northeast, Central, Southwest, and Southeast Regions. The department shall determine a medical marijuana treatment center's maximum number of dispensing facilities allowed in each region by calculating the percentage of the total statewide population contained within that region and multiplying that percentage by the medical marijuana treatment center's statewide maximum number of dispensing

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755 facilities established under sub-subparagraph a., rounded to the  
756 nearest whole number. The department shall ensure that such  
757 rounding does not cause a medical marijuana treatment center's  
758 total number of statewide dispensing facilities to exceed its  
759 statewide maximum. The department shall initially calculate the  
760 maximum number of dispensing facilities allowed in each region  
761 for each medical marijuana treatment center using county  
762 population estimates from the Florida Estimates of Population  
763 2016, as published by the Office of Economic and Demographic  
764 Research, and shall perform recalculations following the  
765 official release of county population data resulting from each  
766 United States Decennial Census. For the purposes of this  
767 subparagraph:

768 (I) The Northwest Region consists of Bay, Calhoun,  
769 Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson,  
770 Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla,  
771 Walton, and Washington Counties.

772 (II) The Northeast Region consists of Alachua, Baker,  
773 Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist,  
774 Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns,  
775 Suwannee, and Union Counties.

776 (III) The Central Region consists of Brevard, Citrus,  
777 Hardee, Hernando, Indian River, Lake, Orange, Osceola, Pasco,  
778 Pinellas, Polk, Seminole, St. Lucie, Sumter, and Volusia  
779 Counties.

780 (IV) The Southwest Region consists of Charlotte, Collier,  
781 DeSoto, Glades, Hendry, Highlands, Hillsborough, Lee, Manatee,  
782 Okeechobee, and Sarasota Counties.

783 (V) The Southeast Region consists of Broward, Miami-Dade,



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Martin, Monroe, and Palm Beach Counties.

c. If a medical marijuana treatment center establishes a number of dispensing facilities within a region that is less than the number allowed for that region under sub-subparagraph b., the medical marijuana treatment center may sell one or more of its unused dispensing facility slots to other licensed medical marijuana treatment centers. For each dispensing facility slot that a medical marijuana treatment center sells, that medical marijuana treatment center's statewide maximum number of dispensing facilities, as determined under sub-subparagraph a., is reduced by one. The statewide maximum number of dispensing facilities for a medical marijuana treatment center that purchases an unused dispensing facility slot is increased by one per slot purchased. Additionally, the sale of a dispensing facility slot shall reduce the seller's regional maximum and increase the purchaser's regional maximum number of dispensing facilities, as determined in sub-subparagraph b., by one for that region. For any slot purchased under this sub-subparagraph, the regional restriction applied to that slot's location under sub-subparagraph b. before the purchase shall remain in effect following the purchase. A medical marijuana treatment center that sells or purchases a dispensing facility slot must notify the department within 3 days of sale.

d. This subparagraph shall expire on April 1, 2020.

If this subparagraph or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this

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end, the provisions of this subparagraph are severable.

(b) An applicant for licensure as a medical marijuana treatment center shall apply to the department on a form prescribed by the department and adopted in rule. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for the issuance and biennial renewal of licenses, including initial application and biennial renewal fees sufficient to cover the costs of implementing and administering this section, and establishing supplemental licensure fees for payment beginning May 1, 2018, sufficient to cover the costs of administering ss. 381.989 and 1004.4351. The department shall identify applicants with strong diversity plans reflecting this state's commitment to diversity and implement training programs and other educational programs to enable minority persons and minority business enterprises, as defined in s. 288.703, and veteran business enterprises, as defined in s. 295.187, to compete for medical marijuana treatment center licensure and contracts. Subject to the requirements in subparagraphs (a)2.-4., the department shall issue a license to an applicant if the applicant meets the requirements of this section and pays the initial application fee. The department shall renew the licensure of a medical marijuana treatment center biennially if the licensee meets the requirements of this section and pays the biennial renewal fee. An individual may not be an applicant, owner, officer, board member, or manager on more than one application for licensure as a medical marijuana treatment center. An individual or entity may not be awarded more than one license as a medical marijuana treatment center. An applicant for licensure as a medical marijuana treatment

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center must demonstrate:

1. That, for the 5 consecutive years before submitting the application, the applicant has been registered to do business in the state.

2. Possession of a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131.

3. The technical and technological ability to cultivate and produce marijuana, including, but not limited to, low-THC cannabis.

4. The ability to secure the premises, resources, and personnel necessary to operate as a medical marijuana treatment center.

5. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.

6. An infrastructure reasonably located to dispense marijuana to registered qualified patients statewide or regionally as determined by the department.

7. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financial statements to the department.

a. Upon approval, the applicant must post a \$5 million performance bond issued by an authorized surety insurance company rated in one of the three highest rating categories by a nationally recognized rating service. However, a medical marijuana treatment center serving at least 1,000 qualified patients is only required to maintain a \$2 million performance

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bond.

b. In lieu of the performance bond required under sub-  
subparagraph a., the applicant may provide an irrevocable letter  
of credit payable to the department or provide cash to the  
department. If provided with cash under this sub-subparagraph,  
the department shall deposit the cash in the Grants and  
Donations Trust Fund within the Department of Health, subject to  
the same conditions as the bond regarding requirements for the  
applicant to forfeit ownership of the funds. If the funds  
deposited under this sub-subparagraph generate interest, the  
amount of that interest shall be used by the department for the  
administration of this section.

8. That all owners, officers, board members, and managers  
have passed a background screening pursuant to subsection (9).

9. The employment of a medical director to supervise the  
activities of the medical marijuana treatment center.

10. A diversity plan that promotes and ensures the  
involvement of minority persons and minority business  
enterprises, as defined in s. 288.703, or veteran business  
enterprises, as defined in s. 295.187, in ownership, management,  
and employment. An applicant for licensure renewal must show the  
effectiveness of the diversity plan by including the following  
with his or her application for renewal:

a. Representation of minority persons and veterans in the  
medical marijuana treatment center's workforce;

b. Efforts to recruit minority persons and veterans for  
employment; and

c. A record of contracts for services with minority  
business enterprises and veteran business enterprises.

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900       (c) A medical marijuana treatment center may not make a  
901 wholesale purchase of marijuana from, or a distribution of  
902 marijuana to, another medical marijuana treatment center, unless  
903 the medical marijuana treatment center seeking to make a  
904 wholesale purchase of marijuana submits proof of harvest failure  
905 to the department.

906       (d) The department shall establish, maintain, and control a  
907 computer software tracking system that traces marijuana from  
908 seed to sale and allows real-time, 24-hour access by the  
909 department to data from all medical marijuana treatment centers  
910 and marijuana testing laboratories. The tracking system must  
911 allow for integration of other seed-to-sale systems and, at a  
912 minimum, include notification of when marijuana seeds are  
913 planted, when marijuana plants are harvested and destroyed, and  
914 when marijuana is transported, sold, stolen, diverted, or lost.  
915 Each medical marijuana treatment center shall use the seed-to-  
916 sale tracking system established by the department or integrate  
917 its own seed-to-sale tracking system with the seed-to-sale  
918 tracking system established by the department. Each medical  
919 marijuana treatment center may use its own seed-to-sale system  
920 until the department establishes a seed-to-sale tracking system.  
921 The department may contract with a vendor to establish the seed-  
922 to-sale tracking system. The vendor selected by the department  
923 may not have a contractual relationship with the department to  
924 perform any services pursuant to this section other than the  
925 seed-to-sale tracking system. The vendor may not have a direct  
926 or indirect financial interest in a medical marijuana treatment  
927 center or a marijuana testing laboratory.

928       (e) A licensed medical marijuana treatment center shall

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929 cultivate, process, transport, and dispense marijuana for  
930 medical use. A licensed medical marijuana treatment center may  
931 not contract for services directly related to the cultivation,  
932 processing, and dispensing of marijuana or marijuana delivery  
933 devices, except that a medical marijuana treatment center  
934 licensed pursuant to subparagraph (a)1. may contract with a  
935 single entity for the cultivation, processing, transporting, and  
936 dispensing of marijuana and marijuana delivery devices. A  
937 licensed medical marijuana treatment center must, at all times,  
938 maintain compliance with the criteria demonstrated and  
939 representations made in the initial application and the criteria  
940 established in this subsection. Upon request, the department may  
941 grant a medical marijuana treatment center a variance from the  
942 representations made in the initial application. Consideration  
943 of such a request shall be based upon the individual facts and  
944 circumstances surrounding the request. A variance may not be  
945 granted unless the requesting medical marijuana treatment center  
946 can demonstrate to the department that it has a proposed  
947 alternative to the specific representation made in its  
948 application which fulfills the same or a similar purpose as the  
949 specific representation in a way that the department can  
950 reasonably determine will not be a lower standard than the  
951 specific representation in the application. A variance may not  
952 be granted from the requirements in subparagraph 2. and  
953 subparagraphs (b)1. and 2.

954 1. A licensed medical marijuana treatment center may  
955 transfer ownership to an individual or entity who meets the  
956 requirements of this section. A publicly traded corporation or  
957 publicly traded company that meets the requirements of this

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958 section is not precluded from ownership of a medical marijuana  
959 treatment center. To accommodate a change in ownership:

960 a. The licensed medical marijuana treatment center shall  
961 notify the department in writing at least 60 days before the  
962 anticipated date of the change of ownership.

963 b. The individual or entity applying for initial licensure  
964 due to a change of ownership must submit an application that  
965 must be received by the department at least 60 days before the  
966 date of change of ownership.

967 c. Upon receipt of an application for a license, the  
968 department shall examine the application and, within 30 days  
969 after receipt, notify the applicant in writing of any apparent  
970 errors or omissions and request any additional information  
971 required.

972 d. Requested information omitted from an application for  
973 licensure must be filed with the department within 21 days after  
974 the department's request for omitted information or the  
975 application shall be deemed incomplete and shall be withdrawn  
976 from further consideration and the fees shall be forfeited.

977  
978 Within 30 days after the receipt of a complete application, the  
979 department shall approve or deny the application.

980 2. A medical marijuana treatment center, and any individual  
981 or entity who directly or indirectly owns, controls, or holds  
982 with power to vote 5 percent or more of the voting shares of a  
983 medical marijuana treatment center, may not acquire direct or  
984 indirect ownership or control of any voting shares or other form  
985 of ownership of any other medical marijuana treatment center.

986 3. A medical marijuana treatment center may not enter into

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any form of profit-sharing arrangement with the property owner or lessor of any of its facilities where cultivation, processing, storing, or dispensing of marijuana and marijuana delivery devices occurs.

4. All employees of a medical marijuana treatment center must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

5. Each medical marijuana treatment center must adopt and enforce policies and procedures to ensure employees and volunteers receive training on the legal requirements to dispense marijuana to qualified patients.

6. When growing marijuana, a medical marijuana treatment center:

a. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

b. Must grow marijuana within an enclosed structure and in a room separate from any other plant.

c. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state in accordance with chapter 581 and any rules adopted thereunder.

d. Must perform fumigation or treatment of plants, or remove and destroy infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

7. Each medical marijuana treatment center must produce and make available for purchase at least one low-THC cannabis



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product.

8. A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder. Edibles may not contain more than 200 milligrams of tetrahydrocannabinol and a single serving portion of an edible may not exceed 10 milligrams of tetrahydrocannabinol. Edibles may have a potency variance of no greater than 15 percent. Edibles may not be attractive to children; be manufactured in the shape of humans, cartoons, or animals; be manufactured in a form that bears any reasonable resemblance to products available for consumption as commercially available candy; or contain any color additives. To discourage consumption of edibles by children, the department shall determine by rule any shapes, forms, and ingredients allowed and prohibited for edibles. Medical marijuana treatment centers may not begin processing or dispensing edibles until after the effective date of the rule. The department shall also adopt sanitation rules providing the standards and requirements for the storage, display, or dispensing of edibles.

9. Within 12 months after licensure, a medical marijuana treatment center must demonstrate to the department that all of its processing facilities have passed a Food Safety Good Manufacturing Practices, such as Global Food Safety Initiative or equivalent, inspection by a nationally accredited certifying body. A medical marijuana treatment center must immediately stop processing at any facility which fails to pass this inspection

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until it demonstrates to the department that such facility has met this requirement.

10. When processing marijuana, a medical marijuana treatment center must:

a. Process the marijuana within an enclosed structure and in a room separate from other plants or products.

b. Comply with department rules when processing marijuana with hydrocarbon solvents or other solvents or gases exhibiting potential toxicity to humans. The department shall determine by rule the requirements for medical marijuana treatment centers to use such solvents or gases exhibiting potential toxicity to humans.

c. Comply with federal and state laws and regulations and department rules for solid and liquid wastes. The department shall determine by rule procedures for the storage, handling, transportation, management, and disposal of solid and liquid waste generated during marijuana production and processing. The Department of Environmental Protection shall assist the department in developing such rules.

d. Test the processed marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from

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1074 contaminants that are unsafe for human consumption. The  
1075 department shall determine by rule which contaminants must be  
1076 tested for and the maximum levels of each contaminant which are  
1077 safe for human consumption. The Department of Agriculture and  
1078 Consumer Services shall assist the department in developing the  
1079 testing requirements for contaminants that are unsafe for human  
1080 consumption in edibles. The department shall also determine by  
1081 rule the procedures for the treatment of marijuana that fails to  
1082 meet the testing requirements of this section, s. 381.988, or  
1083 department rule. The department may select a random sample from  
1084 edibles available for purchase in a dispensing facility which  
1085 shall be tested by the department to determine that the edible  
1086 meets the potency requirements of this section, is safe for  
1087 human consumption, and the labeling of the tetrahydrocannabinol  
1088 and cannabidiol concentration is accurate. A medical marijuana  
1089 treatment center may not require payment from the department for  
1090 the sample. A medical marijuana treatment center must recall  
1091 edibles, including all edibles made from the same batch of  
1092 marijuana, which fail to meet the potency requirements of this  
1093 section, which are unsafe for human consumption, or for which  
1094 the labeling of the tetrahydrocannabinol and cannabidiol  
1095 concentration is inaccurate. The medical marijuana treatment  
1096 center must retain records of all testing and samples of each  
1097 homogenous batch of marijuana for at least 9 months. The medical  
1098 marijuana treatment center must contract with a marijuana  
1099 testing laboratory to perform audits on the medical marijuana  
1100 treatment center's standard operating procedures, testing  
1101 records, and samples and provide the results to the department  
1102 to confirm that the marijuana or low-THC cannabis meets the

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requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as at least one laboratory holds the required certification, but in no event later than July 1, 2018.

e. Package the marijuana in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

f. Package the marijuana in a receptacle that has a firmly affixed and legible label stating the following information:

(I) The marijuana or low-THC cannabis meets the requirements of sub-subparagraph d.

(II) The name of the medical marijuana treatment center from which the marijuana originates.

(III) The batch number and harvest number from which the marijuana originates and the date dispensed.

(IV) The name of the physician who issued the physician certification.

(V) The name of the patient.

(VI) The product name, if applicable, and dosage form, including concentration of tetrahydrocannabinol and cannabidiol. The product name may not contain wording commonly associated with products marketed by or to children.

(VII) The recommended dose.

(VIII) A warning that it is illegal to transfer medical

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marijuana to another person.

(IX) A marijuana universal symbol developed by the  
department.

11. The medical marijuana treatment center shall include in  
each package a patient package insert with information on the  
specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

12. Each edible shall be individually sealed in plain,  
opaque wrapping marked only with the marijuana universal symbol.  
Where practical, each edible shall be marked with the marijuana  
universal symbol. In addition to the packaging and labeling  
requirements in subparagraphs 10. and 11., edible receptacles  
must be plain, opaque, and white without depictions of the  
product or images other than the medical marijuana treatment  
center's department-approved logo and the marijuana universal  
symbol. The receptacle must also include a list all of the  
edible's ingredients, storage instructions, an expiration date,  
a legible and prominent warning to keep away from children and  
pets, and a warning that the edible has not been produced or  
inspected pursuant to federal food safety laws.

13. When dispensing marijuana or a marijuana delivery  
device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC

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cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. 381.986, Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana to a qualified patient or caregiver.

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each has an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana

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delivery device dispensed; and the name and medical marijuana  
use registry identification number of the qualified patient or  
caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to  
anyone other than the qualified patient, his or her caregiver,  
and authorized medical marijuana treatment center employees.

(f) To ensure the safety and security of premises where the  
cultivation, processing, storing, or dispensing of marijuana  
occurs, and to maintain adequate controls against the diversion,  
theft, and loss of marijuana or marijuana delivery devices, a  
medical marijuana treatment center shall:

1.a. Maintain a fully operational security alarm system  
that secures all entry points and perimeter windows and is  
equipped with motion detectors; pressure switches; and duress,  
panic, and hold-up alarms; and

b. Maintain a video surveillance system that records  
continuously 24 hours a day and meets the following criteria:

(I) Cameras are fixed in a place that allows for the clear  
identification of persons and activities in controlled areas of  
the premises. Controlled areas include grow rooms, processing  
rooms, storage rooms, disposal rooms or areas, and point-of-sale  
rooms.

(II) Cameras are fixed in entrances and exits to the  
premises, which shall record from both indoor and outdoor, or  
ingress and egress, vantage points.

(III) Recorded images must clearly and accurately display  
the time and date.

(IV) Retain video surveillance recordings for at least 45  
days or longer upon the request of a law enforcement agency.

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1219 2. Ensure that the medical marijuana treatment center's  
1220 outdoor premises have sufficient lighting from dusk until dawn.

1221 3. Ensure that the indoor premises where dispensing occurs  
1222 includes a waiting area with sufficient space and seating to  
1223 accommodate qualified patients and caregivers and at least one  
1224 private consultation area that is isolated from the waiting area  
1225 and area where dispensing occurs. A medical marijuana treatment  
1226 center may not display products or dispense marijuana or  
1227 marijuana delivery devices in the waiting area.

1228 4. Not dispense from its premises marijuana or a marijuana  
1229 delivery device between the hours of 9 p.m. and 7 a.m., but may  
1230 perform all other operations and deliver marijuana to qualified  
1231 patients 24 hours a day.

1232 5. Store marijuana in a secured, locked room or a vault.

1233 6. Require at least two of its employees, or two employees  
1234 of a security agency with whom it contracts, to be on the  
1235 premises at all times where cultivation, processing, or storing  
1236 of marijuana occurs.

1237 7. Require each employee or contractor to wear a photo  
1238 identification badge at all times while on the premises.

1239 8. Require each visitor to wear a visitor pass at all times  
1240 while on the premises.

1241 9. Implement an alcohol and drug-free workplace policy.

1242 10. Report to local law enforcement within 24 hours after  
1243 the medical marijuana treatment center is notified or becomes  
1244 aware of the theft, diversion, or loss of marijuana.

1245 (g) To ensure the safe transport of marijuana and marijuana  
1246 delivery devices to medical marijuana treatment centers,  
1247 marijuana testing laboratories, or qualified patients, a medical



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marijuana treatment center must:

1. Maintain a marijuana transportation manifest in any vehicle transporting marijuana. The marijuana transportation manifest must be generated from a medical marijuana treatment center's seed-to-sale tracking system and include the:

a. Departure date and approximate time of departure.

b. Name, location address, and license number of the originating medical marijuana treatment center.

c. Name and address of the recipient of the delivery.

d. Quantity and form of any marijuana or marijuana delivery device being transported.

e. Arrival date and estimated time of arrival.

f. Delivery vehicle make and model and license plate number.

g. Name and signature of the medical marijuana treatment center employees delivering the product.

(I) A copy of the marijuana transportation manifest must be provided to each individual, medical marijuana treatment center, or marijuana testing laboratory that receives a delivery. The individual, or a representative of the center or laboratory, must sign a copy of the marijuana transportation manifest acknowledging receipt.

(II) An individual transporting marijuana or a marijuana delivery device must present a copy of the relevant marijuana transportation manifest and his or her employee identification card to a law enforcement officer upon request.

(III) Medical marijuana treatment centers and marijuana testing laboratories must retain copies of all marijuana transportation manifests for at least 3 years.

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2. Ensure only vehicles in good working order are used to transport marijuana.

3. Lock marijuana and marijuana delivery devices in a separate compartment or container within the vehicle.

4. Require employees to have possession of their employee identification card at all times when transporting marijuana or marijuana delivery devices.

5. Require at least two persons to be in a vehicle transporting marijuana or marijuana delivery devices, and require at least one person to remain in the vehicle while the marijuana or marijuana delivery device is being delivered.

6. Provide specific safety and security training to employees transporting or delivering marijuana and marijuana delivery devices.

(h) A medical marijuana treatment center may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

1. The dispensing location of a medical marijuana treatment center may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo. A medical marijuana treatment center's trade name and logo may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana.

2. A medical marijuana treatment center may engage in Internet advertising and marketing under the following conditions:

a. All advertisements must be approved by the department.

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b. An advertisement may not have any content that specifically targets individuals under the age of 18, including cartoon characters or similar images.

c. An advertisement may not be an unsolicited pop-up advertisement.

d. Opt-in marketing must include an easy and permanent opt-out feature.

(i) Each medical marijuana treatment center that dispenses marijuana and marijuana delivery devices shall make available to the public on its website:

1. Each marijuana and low-THC product available for purchase, including the form, strain of marijuana from which it was extracted, cannabidiol content, tetrahydrocannabinol content, dose unit, total number of doses available, and the ratio of cannabidiol to tetrahydrocannabinol for each product.

2. The price for a 30-day, 50-day, and 70-day supply at a standard dose for each marijuana and low-THC product available for purchase.

3. The price for each marijuana delivery device available for purchase.

4. If applicable, any discount policies and eligibility criteria for such discounts.

(j) Medical marijuana treatment centers are the sole source from which a qualified patient may legally obtain marijuana.

(k) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(9) BACKGROUND SCREENING.-An individual required to undergo a background screening pursuant to this section must pass a level 2 background screening as provided under chapter 435,

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1335 which, in addition to the disqualifying offenses provided in s.  
1336 435.04, shall exclude an individual who has an arrest awaiting  
1337 final disposition for, has been found guilty of, regardless of  
1338 adjudication, or has entered a plea of nolo contendere or guilty  
1339 to an offense under chapter 837, chapter 895, or chapter 896 or  
1340 similar law of another jurisdiction.

1341 (a) Such individual must submit a full set of fingerprints  
1342 to the department or to a vendor, entity, or agency authorized  
1343 by s. 943.053(13). The department, vendor, entity, or agency  
1344 shall forward the fingerprints to the Department of Law  
1345 Enforcement for state processing, and the Department of Law  
1346 Enforcement shall forward the fingerprints to the Federal Bureau  
1347 of Investigation for national processing.

1348 (b) Fees for state and federal fingerprint processing and  
1349 retention shall be borne by the individual. The state cost for  
1350 fingerprint processing shall be as provided in s. 943.053(3)(e)  
1351 for records provided to persons or entities other than those  
1352 specified as exceptions therein.

1353 (c) Fingerprints submitted to the Department of Law  
1354 Enforcement pursuant to this subsection shall be retained by the  
1355 Department of Law Enforcement as provided in s. 943.05(2)(g) and  
1356 (h) and, when the Department of Law Enforcement begins  
1357 participation in the program, enrolled in the Federal Bureau of  
1358 Investigation's national retained print arrest notification  
1359 program. Any arrest record identified shall be reported to the  
1360 department.

1361 (10) MEDICAL MARIJUANA TREATMENT CENTER INSPECTIONS;  
1362 ADMINISTRATIVE ACTIONS.—

1363 (a) The department shall conduct announced or unannounced

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inspections of medical marijuana treatment centers to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a medical marijuana treatment center upon receiving a complaint or notice that the medical marijuana treatment center has dispensed marijuana containing mold, bacteria, or other contaminant that may cause or has caused an adverse effect to human health or the environment.

(c) The department shall conduct at least a biennial inspection of each medical marijuana treatment center to evaluate the medical marijuana treatment center's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The Department of Agriculture and Consumer Services and the department shall enter into an interagency agreement to ensure cooperation and coordination in the performance of their obligations under this section and their respective regulatory and authorizing laws. The department, the Department of Highway Safety and Motor Vehicles, and the Department of Law Enforcement may enter into interagency agreements for the purposes specified in this subsection or subsection (7).

(e) The department shall publish a list of all approved medical marijuana treatment centers, medical directors, and qualified physicians on its website.

(f) The department may impose reasonable fines not to exceed \$10,000 on a medical marijuana treatment center for any of the following violations:

1. Violating this section or department rule.

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- 1393        2. Failing to maintain qualifications for approval.
- 1394        3. Endangering the health, safety, or security of a
- 1395 qualified patient.
- 1396        4. Improperly disclosing personal and confidential
- 1397 information of the qualified patient.
- 1398        5. Attempting to procure medical marijuana treatment center
- 1399 approval by bribery, fraudulent misrepresentation, or extortion.
- 1400        6. Being convicted or found guilty of, or entering a plea
- 1401 of guilty or nolo contendere to, regardless of adjudication, a
- 1402 crime in any jurisdiction which directly relates to the business
- 1403 of a medical marijuana treatment center.
- 1404        7. Making or filing a report or record that the medical
- 1405 marijuana treatment center knows to be false.
- 1406        8. Willfully failing to maintain a record required by this
- 1407 section or department rule.
- 1408        9. Willfully impeding or obstructing an employee or agent
- 1409 of the department in the furtherance of his or her official
- 1410 duties.
- 1411        10. Engaging in fraud or deceit, negligence, incompetence,
- 1412 or misconduct in the business practices of a medical marijuana
- 1413 treatment center.
- 1414        11. Making misleading, deceptive, or fraudulent
- 1415 representations in or related to the business practices of a
- 1416 medical marijuana treatment center.
- 1417        12. Having a license or the authority to engage in any
- 1418 regulated profession, occupation, or business that is related to
- 1419 the business practices of a medical marijuana treatment center
- 1420 suspended, revoked, or otherwise acted against by the licensing
- 1421 authority of any jurisdiction, including its agencies or

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subdivisions, for a violation that would constitute a violation under Florida law.

13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(g) The department may suspend, revoke, or refuse to renew a medical marijuana treatment center license if the medical marijuana treatment center commits any of the violations in paragraph (f).

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(11) PREEMPTION.—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

(b)1. A county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality. A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality.

2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within

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the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the unincorporated areas of that county. Except as provided in paragraph (c), a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in an amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. 381.986(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida Building Code or the Florida Fire Prevention Code.



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(12) PENALTIES.—

(a) A qualified physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the qualified physician issues a physician certification for the medical use of marijuana for a patient without a reasonable belief that the patient is suffering from a qualifying medical condition.

(b) A person who fraudulently represents that he or she has a qualifying medical condition to a qualified physician for the purpose of being issued a physician certification commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A qualified patient who uses marijuana, not including low-THC cannabis, or a caregiver who administers marijuana, not including low-THC cannabis, in plain view of or in a place open to the general public; in a school bus, a vehicle, an aircraft, or a boat; or on the grounds of a school except as provided in s. 1006.062, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A qualified patient or caregiver who cultivates marijuana or who purchases or acquires marijuana from any person or entity other than a medical marijuana treatment center violates s. 893.13 and is subject to the penalties provided therein.

(e)1. A qualified patient or caregiver in possession of marijuana or a marijuana delivery device who fails or refuses to present his or her marijuana use registry identification card upon the request of a law enforcement officer commits a misdemeanor of the second degree, punishable as provided in s.

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1509 775.082 or s. 775.083, unless it can be determined through the  
1510 medical marijuana use registry that the person is authorized to  
1511 be in possession of that marijuana or marijuana delivery device.

1512 2. A person charged with a violation of this paragraph may  
1513 not be convicted if, before or at the time of his or her court  
1514 or hearing appearance, the person produces in court or to the  
1515 clerk of the court in which the charge is pending a medical  
1516 marijuana use registry identification card issued to him or her  
1517 which is valid at the time of his or her arrest. The clerk of  
1518 the court is authorized to dismiss such case at any time before  
1519 the defendant's appearance in court. The clerk of the court may  
1520 assess a fee of \$5 for dismissing the case under this paragraph.

1521 (f) A caregiver who violates any of the applicable  
1522 provisions of this section or applicable department rules, for  
1523 the first offense, commits a misdemeanor of the second degree,  
1524 punishable as provided in s. 775.082 or s. 775.083 and, for a  
1525 second or subsequent offense, commits a misdemeanor of the first  
1526 degree, punishable as provided in s. 775.082 or s. 775.083.

1527 (g) A qualified physician who issues a physician  
1528 certification for marijuana or a marijuana delivery device and  
1529 receives compensation from a medical marijuana treatment center  
1530 related to the issuance of a physician certification for  
1531 marijuana or a marijuana delivery device is subject to  
1532 disciplinary action under the applicable practice act and s.  
1533 456.072(1)(n).

1534 (h) A person transporting marijuana or marijuana delivery  
1535 devices on behalf of a medical marijuana treatment center or  
1536 marijuana testing laboratory who fails or refuses to present a  
1537 transportation manifest upon the request of a law enforcement

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officer commits a misdemeanor of the second degree, punishable  
as provided in s. 775.082 or s. 775.083.

(i) Persons and entities conducting activities authorized  
and governed by this section and s. 381.988 are subject to ss.  
456.053, 456.054, and 817.505, as applicable.

(j) A person or entity that cultivates, processes,  
distributes, sells, or dispenses marijuana, as defined in s.  
29(b)(4), Art. X of the State Constitution, and is not licensed  
as a medical marijuana treatment center violates s. 893.13 and  
is subject to the penalties provided therein.

(k) A person who manufactures, distributes, sells, gives,  
or possesses with the intent to manufacture, distribute, sell,  
or give marijuana or a marijuana delivery device that he or she  
holds out to have originated from a licensed medical marijuana  
treatment center but that is counterfeit commits a felony of the  
third degree, punishable as provided in s. 775.082, s. 775.083,  
or s. 775.084. For the purposes of this paragraph, the term  
"counterfeit" means marijuana; a marijuana delivery device; or a  
marijuana or marijuana delivery device container, seal, or label  
which, without authorization, bears the trademark, trade name,  
or other identifying mark, imprint, or device, or any likeness  
thereof, of a licensed medical marijuana treatment center and  
which thereby falsely purports or is represented to be the  
product of, or to have been distributed by, that licensed  
medical marijuana treatment facility.

(l) Any person who possesses or manufactures a blank,  
forged, stolen, fictitious, fraudulent, counterfeit, or  
otherwise unlawfully issued medical marijuana use registry  
identification card commits a felony of the third degree,

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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13) UNLICENSED ACTIVITY.—

(a) If the department has probable cause to believe that a person or entity that is not registered or licensed with the department has violated this section, s. 381.988, or any rule adopted pursuant to this section, the department may issue and deliver to such person or entity a notice to cease and desist from such violation. The department also may issue and deliver a notice to cease and desist to any person or entity who aids and abets such unlicensed activity. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person or entity who violates any provisions of such order.

(b) In addition to the remedies under paragraph (a), the department may impose by citation an administrative penalty not to exceed \$5,000 per incident. The citation shall be issued to the subject and must contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. If the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section. Each day that the unlicensed activity continues after issuance of a notice to cease and desist

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constitutes a separate violation. The department shall be entitled to recover the costs of investigation and prosecution in addition to the fine levied pursuant to the citation. Service of a citation may be made by personal service or by mail to the subject at the subject's last known address or place of practice. If the department is required to seek enforcement of the cease and desist or agency order, it shall be entitled to collect attorney fees and costs.

(c) In addition to or in lieu of any other administrative remedy, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist. The civil penalty shall be no less than \$5,000 and no more than \$10,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation and prosecution.

(d) In addition to the other remedies provided in this section, the department or any state attorney may bring an action for an injunction to restrain any unlicensed activity or to enjoin the future operation or maintenance of the unlicensed activity or the performance of any service in violation of this section.

(e) The department must notify local law enforcement of such unlicensed activity for a determination of any criminal violation of chapter 893.

(14) EXCEPTIONS TO OTHER LAWS.—

(a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of

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1625 this section, a qualified patient and the qualified patient's  
1626 caregiver may purchase from a medical marijuana treatment center  
1627 for the patient's medical use a marijuana delivery device and up  
1628 to the amount of marijuana authorized in the physician  
1629 certification, but may not possess more than a 70-day supply of  
1630 marijuana at any given time and all marijuana purchased must  
1631 remain in its original packaging.

1632 (b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or  
1633 any other provision of law, but subject to the requirements of  
1634 this section, an approved medical marijuana treatment center and  
1635 its owners, managers, and employees may manufacture, possess,  
1636 sell, deliver, distribute, dispense, and lawfully dispose of  
1637 marijuana or a marijuana delivery device as provided in this  
1638 section, s. 381.988, and by department rule. For the purposes of  
1639 this subsection, the terms "manufacture," "possession,"  
1640 "deliver," "distribute," and "dispense" have the same meanings  
1641 as provided in s. 893.02.

1642 (c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or  
1643 any other provision of law, but subject to the requirements of  
1644 this section, a certified marijuana testing laboratory,  
1645 including an employee of a certified marijuana testing  
1646 laboratory acting within the scope of his or her employment, may  
1647 acquire, possess, test, transport, and lawfully dispose of  
1648 marijuana as provided in this section, in s. 381.988, and by  
1649 department rule.

1650 (d) A licensed medical marijuana treatment center and its  
1651 owners, managers, and employees are not subject to licensure or  
1652 regulation under chapter 465 or chapter 499 for manufacturing,  
1653 possessing, selling, delivering, distributing, dispensing, or

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lawfully disposing of marijuana or a marijuana delivery device,  
as provided in this section, s. 381.988, and by department rule.

(e) This subsection does not exempt a person from  
prosecution for a criminal offense related to impairment or  
intoxication resulting from the medical use of marijuana or  
relieve a person from any requirement under law to submit to a  
breath, blood, urine, or other test to detect the presence of a  
controlled substance.

(f) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or  
any other provision of law, but subject to the requirements of  
this section and pursuant to policies and procedures established  
pursuant to s. 1006.62(8), school personnel may possess  
marijuana that is obtained for medical use pursuant to this  
section by a student who is a qualified patient.

(g) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or  
any other provision of law, but subject to the requirements of  
this section, a research institute established by a public  
postsecondary educational institution, such as the H. Lee  
Moffitt Cancer Center and Research Institute, Inc., established  
under s. 1004.43, or a state university that has achieved the  
preeminent state research university designation under s.  
1001.7065 may possess, test, transport, and lawfully dispose of  
marijuana for research purposes as provided by this section.

(15) APPLICABILITY.—This section does not limit the ability  
of an employer to establish, continue, or enforce a drug-free  
workplace program or policy. This section does not require an  
employer to accommodate the medical use of marijuana in any  
workplace or any employee working while under the influence of  
marijuana. This section does not create a cause of action

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against an employer for wrongful discharge or discrimination.  
Marijuana, as defined in this section, is not reimbursable under  
chapter 440.

(16) FINES AND FEES.—Fines and fees collected by the  
department under this section shall be deposited in the Grants  
and Donations Trust Fund within the Department of Health.

Section 4. Paragraph (uu) is added to subsection (1) of  
section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the  
board and department.—

(1) The following acts constitute grounds for denial of a  
license or disciplinary action, as specified in s. 456.072(2):

(uu) Issuing a physician certification, as defined in s.  
381.986, in a manner out of compliance with the requirements of  
that section and rules adopted thereunder.

Section 5. Paragraph (ww) is added to subsection (1) of  
section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the  
board and department.—

(1) The following acts constitute grounds for denial of a  
license or disciplinary action, as specified in s. 456.072(2):

(ww) Issuing a physician certification, as defined in s.  
381.986, in a manner not in compliance with the requirements of  
that section and rules adopted thereunder.

Section 6. Section 381.988, Florida Statutes, is created to  
read:

381.988 Medical marijuana testing laboratories; marijuana  
tests conducted by a certified laboratory.—

(1) A person or entity seeking to be a certified marijuana



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testing laboratory must:

(a) Not be owned or controlled by a medical marijuana treatment center.

(b) Submit a completed application accompanied by an application fee, as established by department rule.

(c) Submit proof of an accreditation or a certification approved by the department issued by an accreditation or a certification organization approved by the department. The department shall adopt by rule a list of approved laboratory accreditations or certifications and accreditation or certification organizations.

(d) Require all owners and managers to submit to and pass a level 2 background screening pursuant to s. 435.04 and shall deny certification if the person or entity has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction.

1. Such owners and managers must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fees for state and federal fingerprint processing and retention shall be borne by such owners or managers. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other

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than those specified as exceptions therein.

3. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the department.

(e) Demonstrate to the department the capability of meeting the standards for certification required by this subsection, and the testing requirements of s. 381.986 and this section and rules adopted thereunder.

(2) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for initial certification and biennial renewal, including initial application and biennial renewal fees sufficient to cover the costs of administering this certification program. The department shall renew the certification biennially if the laboratory meets the requirements of this section and pays the biennial renewal fee.

(3) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing the standards for certification of marijuana testing laboratories under this section. The Department of Agriculture and Consumer Services and the Department of Environmental Protection shall assist the department in developing the rule, which must include, but is not limited to:

(a) Security standards.

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(b) Minimum standards for personnel.

(c) Sample collection method and process standards.

(d) Proficiency testing for tetrahydrocannabinol potency, concentration of cannabidiol, and contaminants unsafe for human consumption, as determined by department rule.

(e) Reporting content, format, and frequency.

(f) Audits and onsite inspections.

(g) Quality assurance.

(h) Equipment and methodology.

(i) Chain of custody.

(j) Any other standard the department deems necessary to ensure the health and safety of the public.

(4) A marijuana testing laboratory may acquire marijuana only from a medical marijuana treatment center. A marijuana testing laboratory is prohibited from selling, distributing, or transferring marijuana received from a marijuana treatment center, except that a marijuana testing laboratory may transfer a sample to another marijuana testing laboratory in this state.

(5) A marijuana testing laboratory must properly dispose of all samples it receives, unless transferred to another marijuana testing laboratory, after all necessary tests have been conducted and any required period of storage has elapsed, as established by department rule.

(6) A marijuana testing laboratory shall use the computer software tracking system selected by the department under s. 381.986.

(7) The following acts constitute grounds for which disciplinary action specified in subsection (8) may be taken against a certified marijuana testing laboratory:

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1799 (a) Permitting unauthorized persons to perform technical  
1800 procedures or issue reports.

1801 (b) Demonstrating incompetence or making consistent errors  
1802 in the performance of testing or erroneous reporting.

1803 (c) Performing a test and rendering a report thereon to a  
1804 person or entity not authorized by law to receive such services.

1805 (d) Failing to file any report required under this section  
1806 or s. 381.986 or the rules adopted thereunder.

1807 (e) Reporting a test result if the test was not performed.

1808 (f) Failing to correct deficiencies within the time  
1809 required by the department.

1810 (g) Violating or aiding and abetting in the violation of  
1811 any provision of s. 381.986 or this section or any rules adopted  
1812 thereunder.

1813 (8) The department may refuse to issue or renew, or may  
1814 suspend or revoke, the certification of a marijuana testing  
1815 laboratory that is found to be in violation of this section or  
1816 any rules adopted hereunder. The department may impose fines for  
1817 violations of this section or rules adopted thereunder, based on  
1818 a schedule adopted in rule. In determining the administrative  
1819 action to be imposed for a violation, the department must  
1820 consider the following factors:

1821 (a) The severity of the violation, including the  
1822 probability of death or serious harm to the health or safety of  
1823 any person that may result or has resulted; the severity or  
1824 potential harm; and the extent to which s. 381.986 or this  
1825 section were violated.

1826 (b) The actions taken by the marijuana testing laboratory  
1827 to correct the violation or to remedy the complaint.

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(c) Any previous violation by the marijuana testing laboratory.

(d) The financial benefit to the marijuana testing laboratory of committing or continuing the violation.

(9) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

(10) Fees collected by the department under this section shall be deposited in the Grants and Donations Trust Fund within the Department of Health.

Section 7. Section 381.989, Florida Statutes, is created to read:

381.989 Public education campaigns.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Cannabis" has the same meaning as in s. 893.02.

(b) "Department" means the Department of Health.

(c) "Marijuana" has the same meaning as in s. 381.986.

(2) STATEWIDE CANNABIS AND MARIJUANA EDUCATION AND ILLICIT USE PREVENTION CAMPAIGN.—

(a) The department shall implement a statewide cannabis and marijuana education and illicit use prevention campaign to publicize accurate information regarding:

1. The legal requirements for licit use and possession of marijuana in this state.

2. Safe use of marijuana, including preventing access by persons other than qualified patients as defined in s. 381.986, particularly children.

3. The short-term and long-term health effects of cannabis and marijuana use, particularly on minors and young adults.

4. Other cannabis-related and marijuana-related education

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determined by the department to be necessary to the public health and safety.

(b) The department shall provide educational materials regarding the eligibility for medical use of marijuana by individuals diagnosed with a terminal condition to individuals that provide palliative care or hospice services.

(c) The department may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign. The department may work with school districts, community organizations, and businesses and business organizations and other entities to provide training and programming.

(d) The department may contract with one or more vendors to implement the campaign.

(e) The department shall contract with an independent entity to conduct annual evaluations of the campaign. The evaluations shall assess the reach and impact of the campaign, success in educating the citizens of the state regarding the legal parameters for marijuana use, success in preventing illicit access by adults and youth, and success in preventing negative health impacts from the legalization of marijuana. The first year of the program, the evaluator shall conduct surveys to establish baseline data on youth and adult cannabis use, the attitudes of youth and the general public toward cannabis and marijuana, and any other data deemed necessary for long-term analysis. By January 31 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives the annual evaluation of

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the campaign.

(3) STATEWIDE IMPAIRED DRIVING EDUCATION CAMPAIGN.—

(a) The Department of Highway Safety and Motor Vehicles shall implement a statewide impaired driving education campaign to raise awareness and prevent marijuana-related and cannabis-related impaired driving and may contract with one or more vendors to implement the campaign. The Department of Highway Safety and Motor Vehicles may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

(b) At a minimum, the Department of Highway Safety and Motor Vehicles or a contracted vendor shall establish baseline data on the number of marijuana-related citations for driving under the influence, marijuana-related traffic arrests, marijuana-related traffic accidents, and marijuana-related traffic fatalities, and shall track these measures annually thereafter. The Department of Highway Safety and Motor Vehicles or a contracted vendor shall annually evaluate and compile a report on the efficacy of the campaign based on those measures and other measures established by the Department of Highway Safety and Motor Vehicles. By January 31 of each year, the Department of Highway Safety and Motor Vehicles shall submit the report on the evaluation of the campaign to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. Subsection (1) of section 385.211, Florida Statutes, is amended to read:

385.211 Refractory and intractable epilepsy treatment and

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research at recognized medical centers.—

(1) As used in this section, the term "low-THC cannabis" means "low-THC cannabis" as defined in s. 381.986 that is dispensed only from a dispensing organization as defined in former s. 381.986, Florida Statutes 2016, or a medical marijuana treatment center as defined in s. 381.986.

Section 9. Paragraphs (b) through (e) of subsection (2) of section 499.0295, Florida Statutes, are redesignated as paragraphs (a) through (d), respectively, and present paragraphs (a) and (c) of that subsection, and subsection (3) of that section are amended, to read:

499.0295 Experimental treatments for terminal conditions.—

(2) As used in this section, the term:

~~(a) "Dispensing organization" means an organization approved by the Department of Health under s. 381.986(5) to cultivate, process, transport, and dispense low THC cannabis, medical cannabis, and cannabis delivery devices.~~

(b)~~(e)~~ "Investigational drug, biological product, or device" means:

~~1.~~ a drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; ~~or~~

~~2. Medical cannabis that is manufactured and sold by a dispensing organization.~~

(3) Upon the request of an eligible patient, a manufacturer may, ~~or upon a physician's order pursuant to s. 381.986, a~~



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~~dispensing organization may:~~

(a) Make its investigational drug, biological product, or device available under this section.

(b) Provide an investigational drug, biological product, or device, ~~or cannabis delivery device as defined in s. 381.986~~ to an eligible patient without receiving compensation.

(c) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, or device, ~~or cannabis delivery device as defined in s. 381.986~~.

Section 10. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," ~~"low-THC cannabis,"~~ as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986.

Section 11. Section 1004.4351, Florida Statutes, is created to read:

1004.4351 Medical marijuana research and education.—

(1) SHORT TITLE.—This section shall be known and may be cited as the "Medical Marijuana Research and Education Act."

(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

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(a) The present state of knowledge concerning the use of marijuana to alleviate pain and treat illnesses is limited because permission to perform clinical studies on marijuana is difficult to obtain, with access to research-grade marijuana so restricted that little or no unbiased studies have been performed.

(b) Under the State Constitution, marijuana is available for the treatment of certain debilitating medical conditions.

(c) Additional clinical studies are needed to ensure that the residents of this state obtain the correct dosing, formulation, route, modality, frequency, quantity, and quality of marijuana for specific illnesses.

(d) An effective medical marijuana research and education program would mobilize the scientific, educational, and medical resources that presently exist in this state to determine the appropriate and best use of marijuana to treat illness.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Board" means the Medical Marijuana Research and Education Board.

(b) "Coalition" means the Coalition for Medical Marijuana Research and Education.

(c) "Marijuana" has the same meaning as provided in s. 29, Art. X of the State Constitution.

(4) COALITION FOR MEDICAL MARIJUANA RESEARCH AND EDUCATION.—

(a) There is established within the H. Lee Moffitt Cancer Center and Research Institute, Inc., the Coalition for Medical Marijuana Research and Education. The purpose of the coalition is to conduct rigorous scientific research, provide education,

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disseminate research, and guide policy for the adoption of a  
statewide policy on ordering and dosing practices for the  
medical use of marijuana. The coalition shall be physically  
located at the H. Lee Moffitt Cancer Center and Research  
Institute, Inc.

(b) The Medical Marijuana Research and Education Board is  
established to direct the operations of the coalition. The board  
shall be composed of seven members appointed by the chief  
executive officer of the H. Lee Moffitt Cancer Center and  
Research Institute, Inc. Board members must have experience in a  
variety of scientific and medical fields, including, but not  
limited to, oncology, neurology, psychology, pediatrics,  
nutrition, and addiction. Members shall be appointed to 4-year  
terms and may be reappointed to serve additional terms. The  
chair shall be elected by the board from among its members to  
serve a 2-year term. The board shall meet at least semiannually  
at the call of the chair or, in his or her absence or  
incapacity, the vice chair. Four members constitute a quorum. A  
majority vote of the members present is required for all actions  
of the board. The board may prescribe, amend, and repeal a  
charter governing the manner in which it conducts its business.  
A board member shall serve without compensation but is entitled  
to be reimbursed for travel expenses by the coalition or the  
organization he or she represents in accordance with s. 112.061.

(c) The coalition shall be administered by a coalition  
director, who shall be appointed by and serve at the pleasure of  
the board. The coalition director shall, subject to the approval  
of the board:

1. Propose a budget for the coalition.

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2031 2. Foster the collaboration of scientists, researchers, and  
2032 other appropriate personnel in accordance with the coalition's  
2033 charter.

2034 3. Identify and prioritize the research to be conducted by  
2035 the coalition.

2036 4. Prepare the Medical Marijuana Research and Education  
2037 Plan for submission to the board.

2038 5. Apply for grants to obtain funding for research  
2039 conducted by the coalition.

2040 6. Perform other duties as determined by the board.

2041 (d) The board shall advise the Board of Governors, the  
2042 State Surgeon General, the Governor, and the Legislature with  
2043 respect to medical marijuana research and education in this  
2044 state. The board shall explore methods of implementing and  
2045 enforcing medical marijuana laws in relation to cancer control,  
2046 research, treatment, and education.

2047 (e) The board shall annually adopt a plan for medical  
2048 marijuana research, known as the "Medical Marijuana Research and  
2049 Education Plan," which must be in accordance with state law and  
2050 coordinate with existing programs in this state. The plan must  
2051 include recommendations for the coordination and integration of  
2052 medical, pharmacological, nursing, paramedical, community, and  
2053 other resources connected with the treatment of debilitating  
2054 medical conditions; research related to the treatment of such  
2055 medical conditions; and education.

2056 (f) By February 15 of each year, the board shall issue a  
2057 report to the Governor, the President of the Senate, and the  
2058 Speaker of the House of Representatives on research projects,  
2059 community outreach initiatives, and future plans for the

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coalition.

(g) Beginning January 15, 2018, and quarterly thereafter,  
the Department of Health shall submit to the board a data set  
that includes, for each patient registered in the medical  
marijuana use registry, the patient's qualifying medical  
condition and the daily dose amount and forms of marijuana  
certified for the patient.

(5) RESPONSIBILITIES OF THE H. LEE MOFFITT CANCER CENTER  
AND RESEARCH INSTITUTE, INC.—The H. Lee Moffitt Cancer Center  
and Research Institute, Inc., shall allocate staff and provide  
information and assistance, as the coalition's budget permits,  
to assist the board in fulfilling its responsibilities.

Section 12. Subsection (1) of section 1004.441, Florida  
Statutes, is amended to read:

1004.441 Refractory and intractable epilepsy treatment and  
research.—

(1) As used in this section, the term "low-THC cannabis"  
means "low-THC cannabis" as defined in s. 381.986 that is  
dispensed only from a dispensing organization as defined in  
former s. 381.986, Florida Statutes 2016, or a medical marijuana  
treatment center as defined in s. 381.986.

Section 13. Subsection (8) is added to section 1006.062,  
Florida Statutes, to read:

1006.062 Administration of medication and provision of  
medical services by district school board personnel.—

(8) Each district school board shall adopt a policy and a  
procedure for allowing a student who is a qualified patient, as  
defined in s. 381.986, to use marijuana obtained pursuant to  
that section. Such policy and procedure shall ensure access by

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the qualified patient; identify how the marijuana will be  
received, accounted for, and stored; and establish processes to  
prevent access by other students and school personnel whose  
access would be unnecessary for the implementation of the  
policy.

Section 14. Department of Health; authority to adopt rules;  
cause of action.—

(1) EMERGENCY RULEMAKING.—

(a) The Department of Health and the applicable boards  
shall adopt emergency rules pursuant to s. 120.54(4), Florida  
Statutes, and this section necessary to implement ss. 381.986  
and 381.988, Florida Statutes. If an emergency rule adopted  
under this section is held to be unconstitutional or an invalid  
exercise of delegated legislative authority, and becomes void,  
the department or the applicable boards may adopt an emergency  
rule pursuant to this section to replace the rule that has  
become void. If the emergency rule adopted to replace the void  
emergency rule is also held to be unconstitutional or an invalid  
exercise of delegated legislative authority and becomes void,  
the department and the applicable boards must follow the  
nonemergency rulemaking procedures of the Administrative  
Procedures Act to replace the rule that has become void.

(b) For emergency rules adopted under this section, the  
department and the applicable boards need not make the findings  
required by s. 120.54(4)(a), Florida Statutes. Emergency rules  
adopted under this section are exempt from ss. 120.54(3)(b) and  
120.541, Florida Statutes. The department and the applicable  
boards shall meet the procedural requirements in s. 120.54(a),  
Florida Statutes, if the department or the applicable boards

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2118 have, before the effective date of this act, held any public  
2119 workshops or hearings on the subject matter of the emergency  
2120 rules adopted under this subsection. Challenges to emergency  
2121 rules adopted under this subsection are subject to the time  
2122 schedules provided in s. 120.56(5), Florida Statutes.

2123 (c) Emergency rules adopted under this section are exempt  
2124 from s. 120.54(4)(c), Florida Statutes, and shall remain in  
2125 effect until replaced by rules adopted under the nonemergency  
2126 rulemaking procedures of the Administrative Procedures Act. By  
2127 January 1, 2018, the department and the applicable boards shall  
2128 initiate nonemergency rulemaking pursuant to the Administrative  
2129 Procedures Act to replace all emergency rules adopted under this  
2130 section by publishing a notice of rule development in the  
2131 Florida Administrative Register. Except as provided in paragraph  
2132 (a), after January 1, 2018, the department and applicable boards  
2133 may not adopt rules pursuant to the emergency rulemaking  
2134 procedures provided in this section.

2135 (2) CAUSE OF ACTION.—

2136 (a) As used in s. 29(d)(3), Article X of the State  
2137 Constitution, the term:

2138 1. "Issue regulations" means the filing by the department  
2139 of a rule or emergency rule for adoption with the Department of  
2140 State.

2141 2. "Judicial relief" means an action for declaratory  
2142 judgment pursuant to chapter 86, Florida Statutes.

2143 (b) The venue for actions brought against the department  
2144 pursuant to s. 29(d)(3), Article X of the State Constitution  
2145 shall be in the circuit court in and for Leon County.

2146 (c) If the department is not issuing patient and caregiver

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2147 identification cards or licensing medical marijuana treatment  
2148 centers by October 3, 2017, the following shall be a defense to  
2149 a cause of action brought under s. 29(d)(3), Article X of the  
2150 State Constitution:

2151 1. The department is unable to issue patient and caregiver  
2152 identification cards or license medical marijuana treatment  
2153 centers due to litigation challenging a rule as an invalid  
2154 exercise of delegated legislative authority or unconstitutional.

2155 2. The department is unable to issue patient or caregiver  
2156 identification cards or license medical marijuana treatment  
2157 centers due to a rule being held as an invalid exercise of  
2158 delegated legislative authority or unconstitutional.

2159 Section 15. Department of Law Enforcement; training related  
2160 to medical use of marijuana.-The Department of Law Enforcement  
2161 shall develop a 4-hour online initial training course, and a 2-  
2162 hour online continuing education course, which shall be made  
2163 available for use by all law enforcement agencies in this state.  
2164 Such training shall cover the legal parameters of marijuana-  
2165 related activities governed by ss. 381.986 and 381.988, Florida  
2166 Statutes, relating to criminal laws governing marijuana.

2167 Section 16. Section 385.212, Florida Statutes, is amended  
2168 to read:

2169 385.212 Powers and duties of the Department of Health;  
2170 Office of ~~Medical Marijuana~~ Compassionate Use.-

2171 (1) The Department of Health shall establish an Office of  
2172 ~~Medical Marijuana~~ Compassionate Use under the direction of the  
2173 Deputy State Health Officer.

2174 (2) The Office of ~~Medical Marijuana~~ Compassionate Use may  
2175 enhance access to investigational new drugs for Florida patients



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through approved clinical treatment plans or studies. The Office of Medical Marijuana ~~Compassionate~~ Use may:

(a) Create a network of state universities and medical centers recognized pursuant to s. 381.925.

(b) Make any necessary application to the United States Food and Drug Administration or a pharmaceutical manufacturer to facilitate enhanced access to medical ~~compassionate~~ use of marijuana for Florida patients.

(c) Enter into any agreements necessary to facilitate enhanced access to medical ~~compassionate~~ use of marijuana for Florida patients.

(3) The department may adopt rules necessary to implement this section.

(4) The Office of Medical Marijuana Use shall administer and enforce s. 381.986.

Section 17. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 18. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes a law.

Section 19. (1) For the 2017-2018 fiscal year, 55 full-time equivalent positions, with associated salary rate of 2,198,860, are authorized and the sums of \$3.5 million in nonrecurring funds from the General Revenue Fund and \$4,055,292 in recurring

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2205 funds and \$1,238,148 in nonrecurring funds from the Grants and  
2206 Donations Trust Fund are appropriated to the Department of  
2207 Health for the purpose of implementing the requirements of this  
2208 act. Of the funds appropriated, \$3,158,572 in recurring funds  
2209 and \$1,238,148 in nonrecurring funds from the Grants and  
2210 Donations Trust Fund and 27 full-time equivalent positions shall  
2211 be placed in reserve. The Department of Health is authorized to  
2212 submit budget amendments requesting the release of funds being  
2213 held in reserve pursuant to chapter 216, Florida Statutes  
2214 contingent upon need and demonstration of fee collections to  
2215 support the budget authority.

2216 (2) For the 2017-2018 fiscal year, the sum of \$500,000 in  
2217 nonrecurring funds from the General Revenue Fund is appropriated  
2218 to the Department of Health to implement the statewide cannabis  
2219 and marijuana education and illicit use prevention campaign  
2220 established under s. 381.989, Florida Statutes.

2221 (3) For the 2017-2018 fiscal year, the sum of \$5 million in  
2222 nonrecurring funds from the Highway Safety Operating Trust Fund  
2223 are appropriated to the Department of Highway Safety and Motor  
2224 Vehicles to implement the statewide impaired driving education  
2225 campaign established under s. 381.989, Florida Statutes.

2226 (4) For the 2017-2018 fiscal year, the sum of \$100,000 in  
2227 recurring funds from the Highway Safety Operating Trust Fund is  
2228 appropriated to the Department of Highway Safety and Motor  
2229 Vehicles for the purpose of training additional law enforcement  
2230 officers as drug recognition experts.

2231 (5) For the 2017-2018 fiscal year, the sum of \$750,000 in  
2232 nonrecurring funds from the General Revenue Fund is provided for  
2233 the Coalition for Medicinal Cannabis Research and Education at

20178Aer

2234 the H. Lee Moffitt Cancer Center and Research Institute, Inc.,  
2235 to conduct medical cannabis research.

2236 Section 20. This act shall take effect upon becoming a law.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature in 2014 enacted a Low-THC and Medical Cannabis law, the “Compassionate Medical Cannabis Act of 2014” (codified as Section 381.986, Florida Statutes) (“Act”) which, among other provisions, authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, low THC cannabis and operate as “Dispensing Organizations” for individuals with certain specified serious ailments; and

**WHEREAS**, the Florida Legislature in 2016 amended the Compassionate Medical Cannabis Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions; and

**WHEREAS**, the 2016 Amendment to Section 381.986, Florida Statutes, expanded the type of marijuana available to eligible patients beyond low THC cannabis to include all types of marijuana, and the statutory amendment has been codified and has become effective in the State of Florida; and

**WHEREAS**, on November 8, 2016, Florida’s voters voted in favor of an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”); and

**WHEREAS**, Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified debilitating conditions, and authorized the cultivation processing, distribution and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”; and

**WHEREAS**, Section 381.986(11)(b), Florida Statutes, permits municipalities to determine by ordinance to ban dispensing facilities and medical marijuana treatment facilities; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the and recommends approval, as set forth in the Staff Analysis and Recommendation dated July 7, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

**WHEREAS**, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and

**WHEREAS**, on September \_\_\_\_, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** After considering Staff's report, both submitted in writing and presented orally and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A"

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

**THIS SPACE INTENTIONAL LEFT BLANK**

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

**FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid

Vice Mayor Tony Lama

Councilmember Luis Collazo

Councilmember Tim Daubert

Councilmember Caesar Mestre

Councilmember Frank Mingo

Councilmember Nelson Rodriguez

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.



**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid

Vice Mayor Tony Lama

Councilmember Luis Collazo

Councilmember Tim Daubert

Councilmember Caesar Mestre

Councilmember Frank Mingo

Councilmember Nelson Rodriguez

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Manny Cid

Mayor

Attest:

\_\_\_\_\_  
Gina M. Inguanzo

Town Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.

Gastesi & Associates, P.A.

Town Attorney

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE IV. - ZONING DISTRICT REGULATIONS

\* \* \*

### DIVISION 21. - ADDITIONAL BUSINESS, COMMERCIAL, INDUSTRIAL AND OTHER USE REGULATIONS

\* \* \*

#### **13-799.7 Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories.**

Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories are prohibited within the territorial jurisdiction of the Town of Miami Lakes as provided at Florida Statue 381.986.

**13-799.7(1) Definitions.** For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

- a. Cannabis means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant and every compound, manufacture, salt derivative, mixture or preparation of the plant or its seeds or resin. Also known as marijuana.
- b. Cannabis dispensary means an establishment where the cultivation of the cannabis plant, sale of the cannabis plant, sale of any part of the cannabis plant, including its flowers and any derivative product of the cannabis plant, including low-THC cannabis, is dispensed at retail.
- c. Derivative product means any form of cannabis suitable for routes of administration.
- d. Independent testing laboratory means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

- e. Low-THC cannabis means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to Section 381.986, Florida Statutes.
- f. Low-THC cannabis dispensary means an establishment where low-THC cannabis is dispensed at retail.
- g. Medical cannabis means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295, Florida Statutes.
- h. Medical Marijuana Treatment Facility means business entities that cultivate, process, and dispense cannabis for medicinal purposes to qualified patients.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

**ORDINANCE NO. 17-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Legislature in 2014 enacted a Low-THC and Medical Cannabis law, the “Compassionate Medical Cannabis Act of 2014” (codified as Section 381.986, Florida Statutes) (“Act”) which, among other provisions, authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, low THC cannabis and operate as “Dispensing Organizations” for individuals with certain specified serious ailments; and

**WHEREAS**, the Florida Legislature in 2016 amended the Compassionate Medical Cannabis Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions; and

**WHEREAS**, the 2016 Amendment to Section 381.986, Florida Statutes, expanded the type of marijuana available to eligible patients beyond low THC cannabis to include all types of marijuana, and the statutory amendment has been codified and has become effective in the State of Florida; and

**WHEREAS**, on November 8, 2016, Florida’s voters voted in favor of an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”); and

**WHEREAS**, Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified debilitating conditions, and authorized the cultivation processing, distribution and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”; and

**WHEREAS**, June 23, 2017, Governor Rick Scott signed into law amendments to Florida Statute § 381.986, providing municipalities with guidance regarding the regulation of cannabis; and

**WHEREAS**, Section 381.986(11)(b), Florida Statutes, permits municipalities to determine by ordinance to ban dispensing facilities and medical marijuana treatment facilities; and

**WHEREAS**, the Administrative Official reviewed the proposed amendment to the and recommends approval, as set forth in the Staff Analysis and Recommendation dated July 7, 2017, and incorporated into this Ordinance by reference; and

**WHEREAS**, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

**WHEREAS**, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

**WHEREAS**, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

**WHEREAS**, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and

**WHEREAS**, on September 5, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Findings.** After considering Staff's report, both submitted in writing and presented orally and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

**Section 3. Approval.** The Town Council hereby adopts the amendment as provided at Exhibit "A"

**Section 4. Repeal of Conflicting Provisions.** All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Town Code.** It is the intention of the Town Council, and

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

**Section 7. Effective date.** This Ordinance shall become effective immediately upon adoption.

**THIS SPACE INTENTIONAL LEFT BLANK**

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.



**FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Manny Cid  
Mayor

Attest:

\_\_\_\_\_  
Gina M. Inganzo  
Town Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
Town Attorney



## EXHIBIT A

### Chapter 13 - LAND DEVELOPMENT CODE

\* \* \*

### ARTICLE IV. - ZONING DISTRICT REGULATIONS

\* \* \*

### DIVISION 21. - ADDITIONAL BUSINESS, COMMERCIAL, INDUSTRIAL AND OTHER USE REGULATIONS

\* \* \*

#### **13-799.7 Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories.**

Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories are prohibited within the territorial jurisdiction of the Town of Miami Lakes as provided at Florida Statue 381.986.

**13-799.7(1) Definitions.** For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

- a. Cannabis means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant and every compound, manufacture, salt derivative, mixture or preparation of the plant or its seeds or resin. Also known as marijuana.
- b. Cannabis dispensary means an establishment where the cultivation of the cannabis plant, sale of the cannabis plant, sale of any part of the cannabis plant, including its flowers and any derivative product of the cannabis plant, including low-THC cannabis, is dispensed at retail.
- c. Derivative product means any form of cannabis suitable for routes of administration.
- d. Independent testing laboratory means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.

- e. Low-THC cannabis means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to Section 381.986, Florida Statutes.
- f. Low-THC cannabis dispensary means an establishment where low-THC cannabis is dispensed at retail.
- g. Medical cannabis means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295, Florida Statutes.
- h. Medical Marijuana Treatment Facility means business entities that cultivate, process, and dispense cannabis for medicinal purposes to qualified patients.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “\* \* \*”.



## **Town of Miami Lakes Memorandum**

---

**To: Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Employee Bonus Program Amendment**  
**Date: 9/5/2017**

---

### **Recommendation:**

It is recommended that the Town Council amend "Exhibit A" to the Town's employee bonus Ordinance 03-29 to comply with changes to Florida Statute 215.425 as described below.

### **Background:**

In January, 2003, the Town adopted Ordinance No. 03-29 establishing an employee bonus program for employees of the Town. The Ordinance includes Exhibit "A", which lists the criteria for the employee bonus program. Bonus awards are performance based and are given out as a one time payment subject to budgeted funds.

The Town's current employee bonus program limits the bonus program to executive staff members only. As amended, pursuant to Florida Statute 215.425(3)(d), the bonus program will be eligible to all employees who meet the performance criteria. In addition, as amended, the criteria more clearly defines specific performance standards by which a bonus will be awarded. An employee must obtain an overall performance rating of Exceptional or Above Average to be eligible for a bonus.

Florida Statute 215.425(3) requires that:

Any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- (a) Base the award of a bonus on work performance;
- (b) Describe the performance standards and evaluation process by which a bonus will be awarded;
- (c) Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- (d) Consider all employees for the bonus.

### **ATTACHMENTS:**

Description

**Ordinance**

**ORDINANCE NO. 17-\_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES,  
FLORIDA, AMENDING TOWN'S EMPLOYEE BONUS  
ORDINANCE 03-29; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR INCLUSION IN CODE; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on January 14, 2003, the Town adopted Ordinance 03-29, which established an extra compensation program, also known as a bonus program ("Bonus Program") for executive employees whose performance exceeds employment standards; and

**WHEREAS**, the Town Council believes it is in the best interest of the Town to award all employees who exceed employment standards with bonuses; and

**WHEREAS**, Florida Statute § 215.425, as amended in 2011 provides that a Bonus policy or Ordinance must be based on work performance, describe the performance standards and evaluation process in order to obtain a bonus, provide notification to all employees of the bonus policy or Ordinance, and consider all employees; and

**WHEREAS**, the Town Council believes it is in the best interest of the Town to amend Ordinance 03-29 in order to provide a Bonus Program for all Town Employees and comply with Florida Law.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** Each of the above stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Adoption.** The Town Council hereby amends Ordinance 03-29, "Employee Bonus Program", which shall read as set forth in **Exhibit "A"** hereto, which is incorporated herein.

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Town Code.** It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

**Section 6. Effective Date.** That this Ordinance shall be effective immediately upon its adoption on second reading.

\*\*\*\*\* THIS SPACE INTENTIONALLY LEFT BLANK \*\*\*\*\*



**FIRST READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on first reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on first reading this \_\_\_\_\_ day of July, 2017.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**SECOND READING**

The foregoing ordinance was offered by Councilmember \_\_\_\_\_ who moved its adoption on second reading. The motion was seconded by Councilmember \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Passed and adopted on second reading this \_\_\_\_ day of \_\_\_\_\_, 2017.

---

Manny Cid  
MAYOR

Attest:

---

Gina Inganzo  
TOWN CLERK

Approved as to form and legal sufficiency:

---

Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

**EXHIBIT "A"**  
**TOWN OF MIAMI LAKES**  
**EMPLOYEE BONUS PROGRAM**

Bonus awards provide a vehicle for recognition of significant, outstanding employee performance. Bonuses are performance-based salary increases for ~~professional/managerial~~ Town employees and may be granted at the time of an employee's annual merit review or on an ad-hoc basis, as deemed appropriate. Bonus payments remain subject to the Town's Manager's review.

A bonus is a one-time, non-recurring amount that does not increase base pay or anniversary date. The cost of the bonus is not compounded by future wage adjustments. The Town is not required to make a contribution to the Town's 401(a) or 457 since bonuses are not considered to be wages for retirement purposes. A bonus, if awarded, shall be in addition to and not in lieu of any Cost of Living increases.

**CRITERIA**

1. To compensate ~~executive~~ all employees for performing duties:
  - a. of a higher classification for a period longer than two weeks.  
or
  - b. which far exceed the performance measures for the position for which the employee was hired.
2. Evaluations of outstanding performance shall be determined as follows:
  - a. The employee must have an outstanding rating in all ~~of the~~ performance evaluation categories which include:
    1. Quality of Work
    2. Productivity
    3. Knowledge of the Job
    4. Reliability and Dependability
    5. Attendance
    6. Initiative
    7. Creativity
    8. Working Relationships
    9. Adherence to Policies and Procedures
  - b. The employee must have accomplished a significant majority of the goals established between the employee and the Manager, at the beginning of the assignment.

3. A completed Employee Evaluation Form must be attached to any request for bonus distribution.



## Town of Miami Lakes Memorandum

---

**To:** Honorable Mayor and Town Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** FY 2016-17 Budget Revision  
**Date:** 9/5/2017

---

### **Recommendation:**

It is recommended that the Town Council approve a revision to the FY 2016-17 Amended Budget modifying line items within the General, Special Revenue-Transit, Building Department and Capital Projects Funds. These changes can be implemented by Resolution since the revisions are below the total appropriations in each fund and has no impact on the Budget's bottom line. The proposed revisions are described below and summarized in Exhibit A.

### **Background:**

Budget revisions are periodically required throughout the fiscal year to adjust line item amounts. The FY 2016-17 Budget adopted by Ordinance No. 2016-197 allows for the Town Manager to administratively transfer amounts not exceeding \$700 per month from any unencumbered line item of allocation of funds to another line item classification within the same department, provided that the Town Manager reports such transfers at the next regular Town Council meeting. This proposed revision exceeds the Town Manager's authorization and is therefore being presented to Council for approval. The total Budget as amended remains unchanged at \$35,413,282 for all Funds.

### **GENERAL FUND**

- Litigation Fees - \$215,000 – Settlement Agreement in the matter of Town of Miami Lakes vs. Preferred Insurance Trust was approved at the Town Council meeting on 7/25/2017. Per the principal terms of the Agreement, the insurance carrier will pay \$500,000 to the Town, of which 40% will be paid to Trujillo Vargas, the law firm representing the Town. In addition, the insurance carrier will pay 30% of all costs incurred by the Town after May 1, 2017 not to exceed \$200,000. This budget revision transfers \$215,000 from the Litigation Reserve account to pay Trujillo Vargas its share of 40% for legal fees estimated through the end of the fiscal year. This reduces the Litigation Reserves to \$190,000.
- Tree Trimming - \$40,000 – The FY 2016-17 Amended Budget provides funds for the trimming of approximately 5,700 trees in the Town on a three-year cycle. Due to the increase in emergency service calls for

tree trimming services, i.e. loose and hazardous branches, and the trimming of areas that were not completed from the prior year due to inclement weather or other unforeseen delays, additional funds are needed to cover these work orders and complete the maintenance cycle through the end of the fiscal year. Funds will be transferred from rights-of-way grounds maintenance where the contract was renewed earlier this year at a cost lower than budgeted.

- Professional IT Services - \$12,000 - During FY 2016-17 the Town requested additional technical services from our IT vendor Gomez Technology pursuant to the additional services clause of its Agreement with the Town. The services requested include staffing unanticipated public meetings that required audio/visual (A/V) technical support, and to increase our Wi-Fi coverage in Town parks as part of our Park Wi-Fi Expansion project as described below.

- Provide additional audio/visual coverage beyond regular monthly Town Council Meetings and Planning and Zoning Board Meetings to include: Candidate Debate Forums; State of the Town Address; Press Conferences; Swearing in Ceremonies; Special Call Meetings; Committee Workshops; Business Workshops; Town Hall Meetings; Strategic Business Planning Meetings; Budget Workshops; Project Information Sessions; and miscellaneous audio/visual coverage requests in fiscal year 2016-2017 (\$6,000)

- Installation, configuration, and local testing of four (4) Meraki Wireless Access Points at the Miami Lakes Optimist Clubhouse, including cable drops (\$1,500).

- Installation, configuration and load testing of fifteen (15) Meraki Wireless Access Points at the following Miami Lakes Parks: six (6) access points at Optimist Park; six (6) access points at Royal Oaks Park; and three (3) access points at Miami Lakes West Park. Service including cable drops (\$4,500).

Expense for Optimist Clubhouse will be charged to the project (\$1,500), and funds will be transferred from surplus in IT Department Rentals and Leases account for leasing a co-location for an off-site backup solution (\$3,000), Town Clerk's agenda management account (\$3,000) and Royal Oaks Park grounds repair and maintenance (\$4,500).

## **SPECIAL REVENUE FUNDS**

### **Building Department Fund**

- Credit Card Fees - \$47,000 – The permitting, inspection and Building Code enforcement activity in the Building Department has significantly increased due to the Town's new developments. As a result, there is a higher volume of credit card payments accepted on our website and at the counter. These transactions incur a payment fee of approximately 2% of revenues which is absorbed by the Town's Building Department in order to provide a higher customer service standard. Funds will be transferred from the Building Fund contingency account to cover the cost of credit card fees through the end of the fiscal year.

### **People's Transportation Plan – (PTP 80%)**

- Light Pole Replacement - \$16,120 - Funds are transferred from PTP contingency line item to cover the replacement of 4 street light poles that were involved in car accidents along NW 67th Avenue and Miami Lakes Drive, Cow Pen Road, Fairway Drive and Bull Run Road which will be offset by insurance claim settlement.

### **Transit – PTP 20%**

- Moover Repairs and Maintenance - \$19,000 - The two Moover buses were purchased 5 years ago and operate Monday – Friday from 6 a.m. to 7 p.m. Due to their age and continuous use, the buses are experiencing an increase in mechanical issues thus needing more repairs and maintenance beyond what is typically needed. This has resulted in increased maintenance costs for parts and labor. Funds are available in the Transit contingency line item and will be transferred to Vehicle Repairs and Maintenance to cover

anticipated expenses for the remainder of the fiscal year.

## **CAPITAL PROJECTS FUND**

- Miami Lakes Optimist Clubhouse - \$120,000 – The Adopted Budget did not fully fund the construction contract value as we had anticipated that savings would be realized. However, funds are now required for furniture, fixtures, additional project management and other miscellaneous expenses that were not included in the design, construction, project management and permitting costs, which will be transferred from the savings for the Marina building renovations.
- Dog Park - \$38,000 - In the prior fiscal year, Council approved \$200,000 for the construction of a one-acre dog park. The basic design of the dog recreation area includes a concrete pad, walking path, grading, a pavilion, benches, water fountain and irrigation. As we approach the final stages of construction, additional funds are being requested to complete the project which includes funds for water fountain lines, dry wells, rule signs, name plaque and the grand opening. This budget revision temporarily transfers funds from MLOP Storage Facility Improvements and will be replenished from Parks Impact Fees Open Space when the final budget amendment for FY2016-17 is done.

## **ATTACHMENTS:**

Description

Resolution

**Exhibit A - FY 2016-17 Revenue and Expenditure Detail**

**RESOLUTION NO. 2017- \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, MODIFYING THE BUDGET APPROVED BY ORDINANCE NO. 16-197 AS AMENDED BY ORDINANCE 17-199; MODIFYING BUDGETED LINE ITEMS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 20, 2016, in accordance with Section 200.065, Florida Statutes and Section 8.7 of the Town of Miami Lakes (the “Town”) Charter, the Town Council adopted the Budget for Fiscal Year 2016-2017 (the “Budget”) by Ordinance No. 16-197, as amended by Ordinance 17-199; and

**WHEREAS**, Section 4 of Ordinance No. 16-197, as amended by Ordinance 17-199, authorizes the Town Council to modify any department, category total or line item of the Budget by resolution so long as the modification does not exceed the Town of Miami Lakes’ (the “Town”) total budgeted funds for the Fiscal Year 2016-2017; and

**WHEREAS**, the Town Council, in accordance with Section 4 of Ordinance No. 16-197, as amended by Ordinance 17-199, has determined that it is necessary to modify the Budget as set forth in the exhibit attached hereto as “A.”

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Line Item Modification.** The Budget for Fiscal Year 2016-2017 adopted in Section 2 of Ordinance 16-197, and amended by Ordinance 17-199 is hereby modified, as



reflected in Exhibit “A” attached hereto. The revisions for each fund are within the approved expenditure authority for Fiscal Year 2016-2017. The Town Council hereby modifies the budget as set forth therein and authorizes the Town Manager to administratively adjust line items to reflect audit adjustments and or line item revisions necessary to close out the Fiscal Year within each department’s expenditure authority.

**Section 3. Rounding.** As presented, the 2016-2017 Budget and Actual Expenses are rounded to the nearest hundred; therefore, line item adjustments within \$100 are hereby incorporated within Exhibit “A.”

**Section 4. Authorization of Town Manager.** The Town Manager is hereby authorized to take all actions necessary to implement the terms and conditions of this resolution and expend budgeted funds.

**Section 5. Effective Date.** This Resolution shall become effective immediately upon adoption hereof.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

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Manny Cid  
MAYOR

Attest:

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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY

# **EXHIBIT “A”**

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
<b>GENERAL FUND EXPENDITURES</b>					
<b>TOWN COUNCIL AND MAYOR</b>					
EXECUTIVE SALARIES- MAYOR	\$18,000	\$18,000		\$18,000	
REGULAR SALARIES	\$80,000	\$80,000		\$80,000	
OVERTIME	\$0	\$0		\$0	
PAYROLL TAXES	\$13,500	\$13,500		\$13,500	
FRS CONTRIBUTIONS	\$7,370	\$7,370		\$7,370	
HEALTH & LIFE INSURANCE	\$77,843	\$77,843		\$77,843	
HEALTH INSURANCE MAYOR	\$10,023	\$10,023		\$10,023	
WIRELESS STIPEND	\$960	\$960		\$960	
TRAVEL & PER DIEM	\$0	\$14,500		\$14,500	
CAR ALLOWANCE -MAYOR	\$7,200	\$7,200		\$7,200	
CAR ALLOWANCE -COUNCIL	\$36,000	\$36,000		\$36,000	
EXP ALLOWANCE MAYOR & COUNCIL	\$50,000	\$50,000		\$50,000	
CELL PHONES	\$6,720	\$6,720		\$6,720	
PRINTING & BINDING	\$1,000	\$200		\$200	
STATE OF TOWN ADDRESS	\$6,000	\$6,000		\$6,000	
ANNUAL PRAYER BREAKFAST	\$0	\$0		\$0	
TOY DRIVE	\$0	\$1,000		\$1,000	
VOLUNTEER APPRECIATION	\$0	\$1,500		\$1,500	
COUNCIL DISCRETIONARY FUND	\$700	\$0		\$0	
COUNCIL CLERICAL SUPPORT	\$0	\$0		\$0	
CHARTER COMMITTEE SUPP MISC EXP	\$0	\$0		\$0	
COUNCIL UNIFORMS	\$360	\$360		\$360	
MEETING SET UP	\$300	\$300		\$300	
COUNCIL AWARDS	\$1,250	\$1,250		\$1,250	
MEMBERSHIPS SUBSCRIPTIONS	\$9,100	\$9,100		\$9,100	
ALL AMERICAN CITY DONATION	\$0	\$0		\$0	
ALL AMERICAN CITY EXPENSES	\$0	\$0		\$0	
DIVIDENDS TO RESIDENCES	\$0	\$0		\$0	
EDUCATION & TRAINING	\$0	\$3,800		\$3,800	
<b>TOTAL TOWN COUNCIL EXPENDITURES:</b>	<b>\$326,326</b>	<b>\$345,626</b>	<b>\$0</b>	<b>\$345,626</b>	
<b>TOWN CLERK</b>					
REGULAR SALARIES	\$70,000	\$70,700		\$70,700	
PAYROLL TAXES	\$5,355	\$5,355		\$5,355	
FRS CONTRIBUTIONS	\$5,264	\$5,264		\$5,264	
HEALTH & LIFE INSURANCE	\$10,148	\$10,148		\$10,148	
WIRELESS STIPEND	\$480	\$480		\$480	
PROFESSIONAL SERVICES	\$5,000	\$5,000		\$5,000	
TOWN CLERK AGENDA MANAGER	\$30,000	\$23,200	<b>-\$3,000</b>	\$20,200	Transfer to IT Department for additional technical services and audio/visual coverage beyond monthly Town meetings
TOWN CLERK DATA SERVICE	\$480	\$480		\$480	
RENTALS AND LEASES	\$2,100	\$2,100		\$2,100	
TOWN CLERK FRAMING	\$0	\$0		\$0	
TOWN CLERK CODIFICATION	\$11,000	\$11,000		\$11,000	
TOWN CLERK LEGAL ADVERTISING	\$20,000	\$20,000		\$20,000	
ADMINISTRATIVE SUPPORT	\$1,000	\$1,000		\$1,000	
TOWN CLERK ELECTION COSTS	\$60,000	\$66,800		\$66,800	
UNIFORMS	\$50	\$50		\$50	
SOFTWARE LICENSES	\$1,920	\$1,920		\$1,920	
CLERK EDUCATION AND TRAINING	\$800	\$800		\$800	
<b>TOTAL TOWN CLERK EXPENDITURES:</b>	<b>\$223,597</b>	<b>\$224,297</b>	<b>-\$3,000</b>	<b>\$221,297</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
<b>TOWN ATTORNEY</b>					
GENERAL LEGAL	\$150,000	\$150,000		\$150,000	
ROUTINE LITIGATION RESERVE	\$85,000	\$109,000		\$109,000	
M. PIZZI LITIGATION	\$0	\$195,000		\$195,000	
M. PIZZI LITIGATION/INSURANCE RECOVERY	\$0	\$0	\$215,000	\$215,000	Litigation fees for insurance recovery
<b>TOTAL TOWN ATTORNEY EXPENDITURES:</b>	<b>\$235,000</b>	<b>\$454,000</b>	<b>\$215,000</b>	<b>\$669,000</b>	
<b>TOWN ADMINISTRATION</b>					
REGULAR SALARIES	\$791,126	\$851,324		\$851,324	
EMPLOYEE BONUSES/COLA	\$25,000	\$0		\$0	
ADM OVERTIME	\$2,000	\$2,000		\$2,000	
PAYROLL TAXES	\$70,796	\$70,796		\$70,796	
FRS CONTRIBUTIONS	\$90,728	\$90,728		\$90,728	
ICMA 457 PL	\$21,512	\$21,512		\$21,512	
ICMA 401 PL	\$0	\$0		\$0	
HEALTH & LIFE INSURANCE	\$149,783	\$149,783		\$149,783	
WIRELESS STIPEND	\$960	\$960		\$960	
ADM UNEMPLOYMENT CLAIMS	\$2,000	\$2,000		\$2,000	
PROFESSIONAL SERVICES	\$10,000	\$40,400		\$40,400	
INTERGOVERNMENTAL (LOBBYIST)	\$48,000	\$48,000		\$48,000	
ACCOUNTING & PAYROLL	\$23,665	\$23,665		\$23,665	
INDEPENDENT AUDIT	\$52,175	\$42,175		\$42,175	
ADM HEALTH SPENDING ACCT/WELLN	\$10,000	\$15,500		\$15,500	
ADM BACKGROUND CHECKS	\$1,500	\$1,500		\$1,500	
ADM - TRAVEL & PER DIEM	\$0	\$10,000		\$10,000	
CAR ALLOWANCE	\$6,000	\$6,000		\$6,000	
TELEPHONE - CELLULAR	\$580	\$580		\$580	
ADM - POSTAGE & DELIVERY	\$19,000	\$19,000		\$19,000	
ADM - COPIER LEASE	\$16,500	\$16,500		\$16,500	
ADM - INSURANCE	\$215,326	\$215,326		\$215,326	
REPAIR AND MAINT CONTRACTS	\$0	\$0		\$0	
ADM - PRINTING & BINDING	\$1,500	\$1,500		\$1,500	
ADM TOWN BRANDING & STRATEGIC PLAN	\$10,000	\$67,105		\$67,105	
ADM ADVERTISEMENT RECRUITMENT	\$1,000	\$1,000		\$1,000	
CLERICAL/ADMINISTRATIVE SUPPORT	\$5,000	\$5,000		\$5,000	
INVESTMENT ADVISORY SERVICE	\$7,000	\$7,000		\$7,000	
FINANCIAL INSTITUTION FEES	\$9,000	\$9,000		\$9,000	
HURRICANE EXPENSES	\$9,160	\$9,160		\$9,160	
ADM - OFFICE SUPPLIES	\$30,000	\$29,600		\$29,600	
UNIFORMS	\$600	\$600		\$600	
ADM-BOOKS/PUBLIC/SUBSCRIP/MEM	\$5,500	\$5,500		\$5,500	
EDUCATION & TRAINING	\$0	\$50,000		\$50,000	
ADM-FURNITURE/EQUIP NON-CAP	\$1,000	\$1,000		\$1,000	
<b>UB-TOTAL ADMINISTRATION EXPENDITURES</b>	<b>\$1,636,412</b>	<b>\$1,814,215</b>	<b>\$0</b>	<b>\$1,814,215</b>	
<b>INFORMATION SYSTEMS</b>					
IT CORE SERVICE SUPPORT	\$110,000	\$110,000	\$10,500	\$120,500	Additional technical services for public meetings and to increase Wi-Fi coverage in Town parks
WEB SUPPORT	\$8,400	\$8,400		\$8,400	
VOICE SUPPORT	\$25,000	\$25,000		\$25,000	
INTERNET SERVICES	\$15,600	\$15,600		\$15,600	
RENTALS AND LEASES	\$3,000	\$3,000	-\$3,000	\$0	Transfer to cover IT Service support
TRAINING	\$5,000	\$5,000		\$5,000	
INFRASTRUCTURE - IT	\$40,000	\$40,000		\$40,000	
COMPUTER SOFTWARE LICENSES	\$117,866	\$117,866		\$117,866	
<b>SUB-TOTAL INFORMATION SYSTEMS:</b>	<b>\$324,866</b>	<b>\$324,866</b>	<b>\$7,500</b>	<b>\$332,366</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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**ADMINISTRATION - TRANSFERS**

RESERVE FOR FUTURE DONATIONS	\$10,000	\$270		\$270	
TRANSFER OUT - CIP PARKS	\$100,000	\$484,172		\$484,172	
TRANSFER TO SPECIAL REVENUE FUND	\$11,416	\$11,416		\$11,416	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$167,081	\$167,081		\$167,081	
<b>SUB-TOTAL ADMINISTRATION TRANSFERS:</b>	<b>\$288,497</b>	<b>\$662,939</b>	<b>\$0</b>	<b>\$662,939</b>	
<b>TOTAL ADMINISTRATION EXPENDITURES:</b>	<b>\$2,249,776</b>	<b>\$2,802,021</b>	<b>\$7,500</b>	<b>\$2,809,521</b>	

**POLICE**

POL - PATROL SERVICES	\$6,937,252	\$6,937,252		\$6,937,252	
POL - PATROL SERVICES	\$40,600	\$40,600		\$40,600	
POLICE OVERTIME	\$350,000	\$350,000		\$350,000	
RETRO ACTIVE SALARY & BENEFITS	\$176,890	\$176,890		\$176,890	
PROSECUTION-CRIMINAL VIOLATION	\$200	\$200		\$200	
TELEPHONE- DEDICATED LINES	\$2,400	\$2,400		\$2,400	
POLICE COPIER COSTS	\$2,500	\$2,500		\$2,500	
VEHICLE REPAIR AND MAINTENANCE	\$3,000	\$3,000		\$3,000	
POLICE - MISC. EXPENSE	\$500	\$500		\$500	
POLICE OFFICE SUPPLIES	\$3,500	\$3,500		\$3,500	
OPERATING SUPPLIES	\$3,000	\$3,000		\$3,000	
POLICE UNIFORMS	\$4,000	\$4,000		\$4,000	
POLICE - FUEL COSTS	\$1,000	\$1,000		\$1,000	
POLICE CRIME PREVENT TRAIN	\$3,000	\$3,000		\$3,000	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$75,187	\$75,187		\$75,187	
<b>SUB-TOTAL POLICE EXPENDITURES:</b>	<b>\$7,603,028</b>	<b>\$7,603,028</b>	<b>\$0</b>	<b>\$7,603,028</b>	

**SCHOOL CROSSING GUARDS**

REGULAR SALARIES	\$89,495	\$64,970		\$64,970	
PAYROLL TAXES	\$6,846	\$6,846		\$6,846	
FRS CONTRIBUTIONS	\$6,730	\$6,730		\$6,730	
WORKMAN'S COMPENSATION	\$3,019	\$3,019		\$3,019	
OPERATING SUPPLIES	\$750	\$750		\$750	
UNIFORMS	\$3,000	\$3,000		\$3,000	
<b>SUB-TOTAL SCHOOL CROSSING GUARDS:</b>	<b>\$109,841</b>	<b>\$85,316</b>	<b>\$0</b>	<b>\$85,316</b>	
<b>TOTAL POLICE EXPENDITURES:</b>	<b>\$7,712,869</b>	<b>\$7,688,344</b>	<b>\$0</b>	<b>\$7,688,344</b>	

**PLANNING**

REGULAR SALARIES	\$95,000	\$95,000		\$95,000	
PAYROLL TAXES	\$7,268	\$7,268		\$7,268	
FRS CONTRIBUTIONS	\$7,144	\$7,144		\$7,144	
HEALTH & LIFE INSURANCE	\$10,191	\$10,191		\$10,191	
WIRELESS STIPEND	\$480	\$480		\$480	
PLANNING CONSULTING	\$8,000	\$8,000		\$8,000	
PLANNING-SITE PLAN REVIEW	\$500	\$500		\$500	
PLANNING PRINTING COSTS	\$500	\$500		\$500	
<b>SUB-TOTAL PLANNING:</b>	<b>\$129,082</b>	<b>\$129,082</b>	<b>\$0</b>	<b>\$129,082</b>	

**CODE COMPLIANCE**

REGULAR SALARIES	\$69,581	\$70,277		\$70,277	
PAYROLL TAXES	\$5,323	\$5,323		\$5,323	
FRS CONTRIBUTIONS	\$5,233	\$5,233		\$5,233	
HEALTH & LIFE INSURANCE	\$17,582	\$17,582		\$17,582	
SPECIAL MASTER	\$3,000	\$3,000		\$3,000	
CONTRACT CODE ENF SER	\$148,000	\$149,480		\$149,480	
PLANNING MOBILE PHONES	\$360	\$360		\$360	
ABANDONED PROPERTY MAINT	\$2,000	\$2,000		\$2,000	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
ALARM MONITORING PROGRAM	\$25,000	\$25,000		\$25,000	
CODE ENF LIEN RECORDING	\$7,000	\$7,000		\$7,000	
REMOTE ACCESS DEVICE	\$1,000	\$1,000		\$1,000	
CODE ENFORCEMENT UNIFORMS	\$600	\$600		\$600	
EDUCATION & TRAINING	\$1,000	\$1,000		\$1,000	
<b>SUB-TOTAL CODE COMPLIANCE:</b>	<b>\$285,678</b>	<b>\$287,854</b>	<b>\$0</b>	<b>\$287,854</b>	
<b>TRANSIT</b>					
DEMAND SERVICES - CONTRACT	\$75,000	\$79,500		\$79,500	
<b>SUB-TOTAL TRANSIT:</b>	<b>\$75,000</b>	<b>\$79,500</b>	<b>\$0</b>	<b>\$79,500</b>	
<b>TOTAL PLANNING, CODE COMPLIANCE &amp; TRANSIT EXPENDITURES:</b>	<b>\$489,761</b>	<b>\$496,437</b>	<b>\$0</b>	<b>\$496,437</b>	
<b>QNIP</b>					
QNIP DEBT SERVICE	\$153,423	\$153,423		\$153,423	
QNIP DEBT SERVICE - PRINCIPAL	\$0	\$0		\$0	
QNIP DEBT SERVICE - INTEREST	\$0	\$0		\$0	
<b>TOTAL QNIP EXPENDITURES:</b>	<b>\$153,423</b>	<b>\$153,423</b>	<b>\$0</b>	<b>\$153,423</b>	
<b>ZONING</b>					
REGULAR SALARIES	\$93,380	\$93,930		\$93,930	
PAYROLL TAXES	\$7,144	\$7,144		\$7,144	
FRS CONTRIBUTIONS	\$7,022	\$7,022		\$7,022	
HEALTH & LIFE INSURANCE	\$10,359	\$10,359		\$10,359	
<b>SUB-TOTAL ZONING EXPENDITURES</b>	<b>\$117,905</b>	<b>\$118,455</b>	<b>\$0</b>	<b>\$118,455</b>	
<b>TOTAL BUILDING &amp; ZONING EXPENDITURES:</b>	<b>\$117,905</b>	<b>\$118,455</b>	<b>\$0</b>	<b>\$118,455</b>	
<b>PARKS - COMMUNITY SERVICES</b>					
REGULAR SALARIES	\$339,950	\$293,719		\$293,719	
OVERTIME	\$1,000	\$1,000		\$1,000	
PAYROLL TAXES	\$25,796	\$25,796		\$25,796	
FRS CONTRIBUTIONS	\$25,564	\$25,564		\$25,564	
HEALTH & LIFE INSURANCE	\$68,333	\$68,333		\$68,333	
WIRELESS STIPEND	\$2,400	\$2,400		\$2,400	
PROFESSIONAL SERVICES	\$0	\$78,780		\$78,780	
VEHICLE REPAIR & MAINTENANCE	\$4,000	\$4,000		\$4,000	
PRINTING EXPENSE	\$1,500	\$1,500		\$1,500	
CREDIT CARD FEES	\$3,500	\$3,500		\$3,500	
MISCELLANEOUS	\$600	\$600		\$600	
PARKS - PERMIT FEES	\$500	\$500		\$500	
COACHES BACKGROUND CK	\$5,600	\$5,600		\$5,600	
CHECK CERTIFICATION CLINIC	\$2,500	\$2,500		\$2,500	
VEHICLE FUEL	\$5,000	\$5,000		\$5,000	
<b>SUB-TOTAL COMMUNITY SERVICES:</b>	<b>\$486,243</b>	<b>\$518,792</b>	<b>\$0</b>	<b>\$518,792</b>	
<b>ROYAL OAKS PARK</b>					
ROYAL OAKS PARK TELECOMMUNICATIONS	\$11,400	\$11,400		\$11,400	
ROYAL OAKS PARK UTILITIES	\$90,880	\$90,880		\$90,880	
ROP MAINTENANCE CONTRACT	\$358,050	\$358,050	<b>-\$4,500</b>	\$353,550	Transfer to IT Department to cover additional technical support for Wi-Fi coverage in Town parks
ROP REPAIRS & MAINTENANCE (GROUNDS)	\$65,000	\$65,000		\$65,000	
ROP OPERATING COSTS (FACILITY)	\$36,500	\$41,498		\$41,498	
ROP-FUR & EQUIP / NON CAP	\$5,000	\$5,000		\$5,000	
<b>SUB-TOTAL ROYAL OAKS PARK:</b>	<b>\$566,830</b>	<b>\$571,828</b>	<b>-\$4,500</b>	<b>\$567,328</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
<b>PARK EAST YOUTH CENTER</b>					
SALARIES	\$30,000	\$30,440		\$30,440	
PAYROLL TAXES	\$2,295	\$2,295		\$2,295	
FRS RETIREMENT CONTRIBUTION	\$2,256	\$2,256		\$2,256	
HEALTH & LIFE INSURANCE	\$10,191	\$10,191		\$10,191	
JANITORIAL	\$30,600	\$30,600		\$30,600	
TELECOMMUNICATIONS	\$2,960	\$2,960		\$2,960	
UTILITIES	\$18,000	\$18,000		\$18,000	
MAINTENANCE CONTRACT	\$16,485	\$16,485		\$16,485	
REPAIRS & MAINTENANCE (GROUNDS)	\$5,000	\$5,000		\$5,000	
OPERATING COSTS (FACILITY)	\$12,500	\$12,500		\$12,500	
PARKS IMPROVEMENT / NON CAP	\$5,000	\$5,000		\$5,000	
<b>SUB-TOTAL PARK EAST YOUTH CENTER:</b>	<b>\$135,287</b>	<b>\$135,727</b>	<b>\$0</b>	<b>\$135,727</b>	
<b>PARK WEST - MARY COLLINS COMMUNITY CENTER</b>					
JANITORIAL	\$42,768	\$42,768		\$42,768	
TELECOMMUNICATIONS	\$2,000	\$2,000		\$2,000	
UTILITIES	\$22,100	\$22,100		\$22,100	
REPAIR & MAINTENANCE CONTRACT	\$21,195	\$21,195		\$21,195	
REPAIR AND MAINTENANCE (GROUNDS)	\$7,500	\$7,500		\$7,500	
REPAIR AND MAINTENANCE (FACILITY)	\$27,000	\$27,000		\$27,000	
PARKS IMP - OPERATING	\$20,000	\$20,000		\$20,000	
INFRASTRUCTURE	\$0	\$15,505		\$15,505	
PARKS - CAP OUTLAY	\$0	\$0		\$0	
<b>SUB-TOTAL MINI PARK - WEST:</b>	<b>\$142,563</b>	<b>\$158,068</b>	<b>\$0</b>	<b>\$158,068</b>	
<b>MIAMI LAKES OPTIMIST PARK</b>					
MIAMI LAKES OPTIMIST TELECOMMUNICATIONS	\$11,025	\$11,025		\$11,025	
MIAMI LAKES OPTIMIST UTILITIES	\$132,300	\$132,300		\$132,300	
MIAMI LAKES OPTIMIST PARK MAINTENANCE	\$499,900	\$499,900		\$499,900	
REPAIRS AND MAINTENANCE (GROUNDS)	\$36,000	\$36,000		\$36,000	
REPAIRS AND MAINTENANCE (FACILITY)	\$16,000	\$16,000		\$16,000	
MIAMI LAKES PARK MARINA OPERATIONS	\$1,500	\$1,500		\$1,500	
MIAMI LAKES PARK/IMPROVEMENTS	\$20,000	\$20,000		\$20,000	
<b>UB -TOTAL MIAMI LAKES OPTIMIST PARK:</b>	<b>\$716,725</b>	<b>\$716,725</b>	<b>\$0</b>	<b>\$716,725</b>	
<b>MINI PARKS</b>					
UTILITIES	\$22,000	\$22,000		\$22,000	
MAINTENANCE CONTRACT	\$252,317	\$252,317		\$252,317	
REPAIRS & MAINTENANCE (GROUNDS)	\$44,330	\$44,330		\$44,330	
MINI PARKS-TREE TRIMMING	\$27,500	\$27,500		\$27,500	
FURNITURE & NON CAPITAL OUTLAY	\$5,000	\$5,000		\$5,000	
<b>SUB-TOTAL MINI PARKS:</b>	<b>\$351,147</b>	<b>\$351,147</b>	<b>\$0</b>	<b>\$351,147</b>	
<b>BARBARA GOLEMAN</b>					
BARBARA GOLEMAN MAINT	\$4,000	\$4,000		\$4,000	
<b>SUB-TOTAL BARBARA GOLEMAN :</b>	<b>\$4,000</b>	<b>\$4,000</b>	<b>\$0</b>	<b>\$4,000</b>	
<b>TOTAL PARKS - COMMUNITY SERVICES</b>	<b>\$2,402,795</b>	<b>\$2,456,286</b>	<b>-\$4,500</b>	<b>\$2,451,786</b>	
<b>COMMUNITY ENGAGEMENT AND OUTREACH</b>					
<b>LEISURE SERVICES</b>					
SALARIES	\$289,224	\$295,344		\$295,344	
PAYROLL TAXES	\$22,126	\$22,126		\$22,126	
FRS RETIREMENT CONTRIBUTION	\$21,750	\$21,750		\$21,750	
HEALTH & LIFE INSURANCE	\$30,572	\$30,572		\$30,572	
WIRELESS STIPEND	\$1,440	\$1,440		\$1,440	



**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
YOUTH CENTER COMMUNITY PROGRAMS	\$10,100	\$10,100		\$10,100	
TOWN COMMUNITY PROGRAMS	\$14,795	\$14,795		\$14,795	
UNIFORMS	\$1,040	\$1,040		\$1,040	
<b>SUB-TOTAL LEISURE SERVICES:</b>	<b>\$391,047</b>	<b>\$397,167</b>	<b>\$0</b>	<b>\$397,167</b>	
<b>ECONOMIC DEVELOPMENT</b>					
SALARIES	\$22,700	\$22,700		\$22,700	
PAYROLL TAXES	\$1,737	\$1,737		\$1,737	
FRS RETIREMENT CONTRIBUTION	\$1,690	\$1,690		\$1,690	
WIRELESS STIPEND	\$240	\$240		\$240	
<b>SUB-TOTAL ECONOMIC DEVELOPMENT:</b>	<b>\$26,367</b>	<b>\$26,367</b>	<b>\$0</b>	<b>\$26,367</b>	
<b>COMMUNICATIONS</b>					
SALARIES	\$22,700	\$22,700		\$22,700	
PAYROLL TAXES	\$1,737	\$1,737		\$1,737	
FRS RETIREMENT CONTRIBUTION	\$1,690	\$1,690		\$1,690	
HEALTH & LIFE INSURANCE	\$0	\$0		\$0	
WIRELESS STIPEND	\$240	\$240		\$240	
<b>SUB-TOTAL COMMUNICATIONS:</b>	<b>\$26,367</b>	<b>\$26,367</b>	<b>\$0</b>	<b>\$26,367</b>	
<b>SPECIAL EVENTS</b>					
SALARIES	\$58,384	\$59,064		\$59,064	
PAYROLL TAXES	\$4,466	\$4,466		\$4,466	
FRS RETIREMENT CONTRIBUTION	\$4,390	\$4,390		\$4,390	
HEALTH & LIFE INSURANCE	\$17,582	\$17,582		\$17,582	
WIRELESS STIPEND	\$480	\$480		\$480	
SPEC EVENTS VETERANS DAY	\$6,000	\$6,000		\$6,000	
SPEC EVENTS 4TH JULY	\$25,000	\$25,000		\$25,000	
OTHER EVENTS - 15 YEAR TOWN ANNIV	\$0	\$0		\$0	
<b>SUB-TOTAL SPECIAL EVENTS:</b>	<b>\$116,303</b>	<b>\$116,983</b>	<b>\$0</b>	<b>\$116,983</b>	
<b>COMMITTEES</b>					
<b>NEIGHBORHOOD IMPROVEMENT COMMITTEE</b>					
BEAUTIFICATION COMMITTEE					
LAKE LAKE AWARENESS MONTH	\$200	\$200		\$200	
PEDES PEDESTRIAN & BIKE INITIATIVES		\$2,350		\$2,350	
HOA QUARTERLY HOA PROJECTS	\$100	\$100		\$100	
THE HOUSE/BUSINESS MONTH CONTEST	\$0	\$0		\$0	
<b>TOTAL NEIGHBORHOOD IMP COMMITTEE:</b>	<b>\$2,650</b>	<b>\$2,650</b>	<b>\$0</b>	<b>\$2,650</b>	
<b>CULTURAL AFFAIRS COMMITTEE</b>					
BASSEL ART BASSEL MIAMI LAKES	\$1,500	\$1,500		\$1,500	
BLACK BLACK HISTORY MONTH CONCERT	\$2,750	\$3,450		\$3,450	
FILM CLASSIC FILM IN THE PARK	\$2,650	\$2,650		\$2,650	
WOMEN WOMEN HISTORY MONTH	\$1,250	\$1,250		\$1,250	
SCOT SCOTTISH AMERICAN HERITAGE MONTH	\$600	\$600		\$600	
BOOK BOOK READING	\$750	\$750		\$750	
COF CONCERT ON THE FAIRWAY	\$10,500	\$9,800		\$9,800	
CON CONCERTS	\$4,500	\$4,500		\$4,500	
FT FISHING	\$500	\$500		\$500	
FOUR FOURTH OF JULY	\$11,500	\$14,250		\$14,250	
HISP HISPANIC HERITAGE	\$10,500	\$10,200		\$10,200	
S FLI SPRING FLING(PAINT A PICTURE)	\$600	\$600		\$600	
<b>TOTAL CULTURAL AFFAIRS COMMITTEE:</b>	<b>\$47,600</b>	<b>\$50,050</b>	<b>\$0</b>	<b>\$50,050</b>	
<b>ECONOMIC DEVELOPMENT COMMITTEE</b>					
MARKE MARKETING MATERIALS	\$7,000	\$7,000		\$7,000	
ML CH MISC EXPENSES	\$7,000	\$7,000		\$7,000	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
REALT REALTOR EVENTS	\$5,200	\$5,200		\$5,200	
SHOWS MISC EXPENSES	\$3,000	\$3,000		\$3,000	
<b>TAL ECONOMIC DEVELOPMENT COMMITTEE:</b>	<b>\$22,200</b>	<b>\$22,200</b>	<b>\$0</b>	<b>\$22,200</b>	
<b>EDUCATIONAL ADVISORY BOARD</b>					
AP LANGUAGE ARTS PROGRAM	\$26,000	\$26,000		\$26,000	
FRIEN FRIENDS OF THE LIBRARY	\$4,000	\$4,000		\$4,000	
IMAG IMAGINATION LIBRARY	\$2,000	\$2,700		\$2,700	
MISC. MISC. EXPENSES	\$300	\$300		\$300	
SAT/ SAT/ACT PREP COURSES	\$4,000	\$4,080		\$4,080	
STEM ELECTIVE COURSES	\$10,000	\$10,000		\$10,000	
EVENT TOWN EVENTS	\$2,000	\$2,000		\$2,000	
TEST STANDARDIZED TESTING SUPPORT	\$10,000	\$9,300		\$9,300	
<b>TOTAL EDUCATIONAL ADVISORY BOARD:</b>	<b>\$58,300</b>	<b>\$58,380</b>	<b>\$0</b>	<b>\$58,380</b>	
<b>ELDERLY AFFAIRS COMMITTEE</b>					
FORU COMMUNITY FORUMS	\$1,500	\$1,500		\$1,500	
HF EAC - HEALTH FAIR	\$500	\$4,900		\$4,900	
METET MEET & EAT	\$4,000	\$4,500		\$4,500	
MISC MISC EXPENSE	\$2,500	\$2,500		\$2,500	
SENIO SENIOR FIELD TRIP	\$6,000	\$6,000		\$6,000	
SG SR. GAMES	\$2,500	\$3,000		\$3,000	
SRSO SENIOR SOCIAL	\$19,000	\$19,000		\$19,000	
<b>TOTAL ELDERLY AFFAIRS COMMITTEE:</b>	<b>\$36,000</b>	<b>\$41,400</b>	<b>\$0</b>	<b>\$41,400</b>	
<b>YOUTH ACTIVITIES TASK FORCE</b>					
BR BICYCLE RODEO	\$2,500	\$5,800		\$5,800	
HHH HALLOWEEN HAUNTED HOUSE	\$8,500	\$12,307		\$12,307	
HIST HISTORICAL SCAVENG	\$0	\$0		\$0	
JUST JUST RUN	\$1,000	\$1,000		\$1,000	
MP MOVIES IN THE PARK	\$21,000	\$24,041		\$24,041	
RELAY RELAY FOR LIFE	\$0	\$250		\$250	
ICE ICE CREAM SOCIAL	\$0	\$2,500		\$2,500	
SPRIN SPRING FLING	\$6,000	\$7,700		\$7,700	
SPORT SPORTS PALOOZA/PRO SPORTS DAY	\$1,000	\$2,000		\$2,000	
SUMMER YOUTH EMPL INITIATIVE	\$1,000	\$1,000		\$1,000	
WINTERFEST	\$0	\$0		\$0	
<b>TOTAL YOUTH ACTIVITIES TASK FORCE:</b>	<b>\$41,000</b>	<b>\$56,598</b>	<b>\$0</b>	<b>\$56,598</b>	
<b>PUBLIC SAFETY COMMITTEE</b>					
BRKF POLICE APPRECIATION BREAKFAST	\$1,000	\$1,500		\$1,500	
CERT C.E.R.T TRAINING	\$250	\$250		\$250	
EDUCATIONAL MATERIALS	\$750	\$750		\$750	
<b>TOTAL PUBLIC SAFETY COMMITTEE:</b>	<b>\$2,000</b>	<b>\$2,500</b>	<b>\$0</b>	<b>\$2,500</b>	
<b>VETERANS AFFAIRS COMMITTEE</b>					
CARE PACKAGE DRIVE	\$1,000	\$1,000		\$1,000	
FLAG FLAG RETIREMENT CEREMONY	\$100	\$100		\$100	
PLAQU PURCH TREES W/PLAQUES	\$900	\$900		\$900	
<b>TOTAL VERTERANS AFFAIRS COMMITTEE:</b>	<b>\$2,000</b>	<b>\$2,000</b>	<b>\$0</b>	<b>\$2,000</b>	
<b>TOTAL COMMITTEES EXPENDITURES:</b>	<b>\$211,750</b>	<b>\$235,778</b>	<b>\$0</b>	<b>\$235,778</b>	
<b>TOTAL COMMUNITY ENGAGEMENT AND OUTREACH EXPENDITURES</b>	<b>\$771,834</b>	<b>\$802,662</b>	<b>\$0</b>	<b>\$802,662</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
<b>PUBLIC WORKS</b>					
<b>PUBLIC WORKS ADMINISTRATION</b>					
REGULAR SALARIES	\$119,500	\$106,044		\$106,044	
PAYROLL TAXES	\$8,931	\$8,931		\$8,931	
FRS CONTRIBUTIONS	\$8,234	\$8,234		\$8,234	
HEALTH & LIFE INSURANCE	\$10,945	\$10,945		\$10,945	
WIRELESS STIPEND	\$480	\$480		\$480	
PROFESSIONAL SERVICES	\$0	\$14,068		\$14,068	
TOWN ENGINEER	\$25,000	\$25,000		\$25,000	
PERMITS PLAN REVIEW	\$38,000	\$38,000		\$38,000	
VEHICLE REPAIR & MAINTENANCE	\$4,000	\$4,000		\$4,000	
UNDERGROUND UTILITY LOCATION	\$27,240	\$45,740		\$45,740	
PW MISCELLANEOUS	\$5,000	\$5,000		\$5,000	
OPERATING SUPPLIES	\$3,000	\$3,000		\$3,000	
UNIFORMS	\$40	\$40		\$40	
VEH OPERATING & MAINT	\$3,000	\$3,000		\$3,000	
FURN & EQUIP NON CAPITAL	\$4,000	\$4,000		\$4,000	
<b>B-TOTAL PUBLIC WORKS ADMINISTRATION:</b>	<b>\$257,370</b>	<b>\$276,482</b>	<b>\$0</b>	<b>\$276,482</b>	
<b>PW - GREEN SPACE</b>					
RIGHT OF WAY ELECTRICITY	\$11,000	\$11,000		\$11,000	
WATER	\$65,000	\$65,000		\$65,000	
REPAIR & MAINTENANCE	\$523,247	\$504,747	-\$40,000	\$464,747	Transfer for Tree Trimming services
PUBLIC WORK ENTRY MAINT	\$4,700	\$4,700		\$4,700	
EXTERMINATION SERVICES	\$3,000	\$3,000		\$3,000	
PW TREE REMOVAL	\$20,000	\$28,500		\$28,500	
TREE TRIMMING	\$170,000	\$170,000	\$40,000	\$210,000	Increase in emergency calls for tree trimming services and to complete maintenance cycle
NEW TREE PLANTING	\$50,000	\$50,000		\$50,000	
BEAUTIFICATION PLAN	\$0	\$21,000		\$21,000	
<b>SUB-TOTAL PW-GREEN SPACE:</b>	<b>\$846,947</b>	<b>\$857,947</b>	<b>\$0</b>	<b>\$857,947</b>	
<b>TOTAL PUBLIC WORKS EXPENDITURES:</b>	<b>\$1,104,317</b>	<b>\$1,134,429</b>	<b>\$0</b>	<b>\$1,134,429</b>	
<b>NON-DEPARTMENTAL</b>					
OPERATING SURPLUS	\$0	\$121,443		\$121,443	
RESERVE FOR LITIGATION/SETTLEMENT	\$0	\$405,000	-\$215,000	\$190,000	Transfer to Litigation Fees for expenses related to Pizzi vs Town of Miami Lakes insurance recovery.
<b>TOTAL NON-DEPARTMENTAL EXPENDITURES</b>	<b>\$0</b>	<b>\$526,443</b>	<b>-\$215,000</b>	<b>\$311,443</b>	
<b>TOTAL GENERAL FUND EXPENDITURES</b>	<b>\$15,787,601</b>	<b>\$17,202,422</b>	<b>\$0</b>	<b>\$17,202,422</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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**SPECIAL REVENUE FUND**

**TRANSPORTATION GAS TAX**

**REVENUE**

1ST LOCAL OPT GAS TAXES - 6C	\$425,500	\$425,500		\$425,500
SR TRANSP BUDGET CARRYFORWARD	\$0	\$0		\$0
<b>TOTAL REVENUES</b>	<b>\$425,500</b>	<b>\$425,500</b>	<b>\$0</b>	<b>\$425,500</b>

**EXPENDITURE**

TRANSP- ADA COMPLIANCE	\$30,000	\$30,000		\$30,000
ROADS - POT HOLE REPAIRS	\$20,000	\$20,000		\$20,000
SIDEWALK PRESSURE CLEANING	\$85,000	\$85,000		\$85,000
ROADS - SIDEWALK REPLACEMENT	\$175,000	\$175,000		\$175,000
ROADS - STRIPING & SIGNS	\$15,500	\$15,500		\$15,500
ROADS - CONTINGENCY	\$0	\$0		\$0
TRANSP - ROAD SYSTEM MAINT	\$100,000	\$100,000		\$100,000
<b>TOTAL EXPENDITURES</b>	<b>\$425,500</b>	<b>\$425,500</b>	<b>\$0</b>	<b>\$425,500</b>

**TRANSIT**

**REVENUE**

TRANSPORTATION 20% SALES TAX	\$230,000	\$230,000		\$230,000
SR TRANSIT BUDGET CARRYFORWARD	\$517,853	\$517,853		\$517,853
<b>TOTAL REVENUES</b>	<b>\$747,853</b>	<b>\$747,853</b>	<b>\$0</b>	<b>\$747,853</b>

**EXPENDITURE**

REGULAR SALARIES	\$50,750	\$50,750		\$50,750
PAYROLL TAXES	\$3,882	\$3,882		\$3,882
FRS CONTRIBUTIONS	\$3,816	\$3,816		\$3,816
HEALTH AND LIFE INSURANCE	\$20,382	\$20,382		\$20,382
PROFESSIONAL SERVICES	\$0	\$0		\$0
TRAFFIC STUDIES	\$25,000	\$25,000		\$25,000
TRANSIT BUS CIRCULATOR CO	\$124,950	\$124,950		\$124,950
TRANSIT BUS SHELTER INS	\$22,950	\$22,950		\$22,950
TRAVEL & PER DIEM	\$1,500	\$1,500		\$1,500
TRANSIT BUS SHELTERS REPAIRS & MAINT	\$16,000	\$16,000		\$16,000
GPS REPAIR AND MAINTENANCE	\$8,600	\$8,600		\$8,600
TRANSIT BUS REPAIR AND MAINTENANCE	\$35,000	\$35,000	\$19,000	\$54,000
CONTINGENCY	\$377,523	\$377,523	-\$19,000	\$358,523
MARKETING PROMOTIONAL SUPPORT	\$20,000	\$20,000		\$20,000
TRANSIT ADMIN PROG EXP5%	\$11,500	\$11,500		\$11,500
FUEL, GAS, OIL	\$25,000	\$25,000		\$25,000
EDUCATION & TRAINING	\$1,000	\$1,000		\$1,000
BUS STOP SIGNS	\$0	\$0		\$0
GLOBAL POSITIONING SYSTEM	\$0	\$0		\$0
TRANSFER OUT TO GENERAL FUND	\$0	\$0	\$0	\$0
<b>TOTAL EXPENDITURES</b>	<b>\$747,853</b>	<b>\$747,853</b>	<b>\$0</b>	<b>\$747,853</b>

Moover buses Increased maintenance cost for parts and labor

**IMPACT FEES - POLICE**

**REVENUE**

IMPACT FEES - PUBLIC SAFETY	\$0	\$0		\$0
TRANSF FROM POLICE IMPACT FEES - FD105	\$0	\$0		\$0
SPEC REV POLICE BUD CARRYFWD	-\$138,536	-\$138,536		-\$138,536
<b>TOTAL REVENUES</b>	<b>-\$138,536</b>	<b>-\$138,536</b>	<b>\$0</b>	<b>-\$138,536</b>

**EXPENDITURE**

POLICE IMPACT FEE EXP	-\$138,536	-\$138,536		-\$138,536
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**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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TRANSFER OUT - CIP FUND	\$0	\$0		\$0	
<b>TOTAL EXPENDITURES</b>	<b>-\$138,536</b>	<b>-\$138,536</b>	<b>\$0</b>	<b>-\$138,536</b>	

**TREE ORDINANCE - BLACK OLIVE REMOVAL PROGRAM**

<b>REVENUE</b>					
BLACK OLIVE PROGRAM - FEE	\$5,000	\$5,000		\$5,000	
TREE REMOVAL PROGRAM - FEE	\$5,000	\$5,000		\$5,000	
TRANSF IN FROM GENERAL FUND	\$11,416	\$11,416		\$11,416	
BUDGET CARRYFORWARD	\$7,391	\$7,391		\$7,391	
<b>TOTAL REVENUES</b>	<b>\$28,807</b>	<b>\$28,807</b>	<b>\$0</b>	<b>\$28,807</b>	
<b>EXPENDITURE</b>					
BLACK OLIVE TREE PROGRAM	\$28,807	\$28,807		\$28,807	
<b>TOTAL EXPENDITURES</b>	<b>\$28,807</b>	<b>\$28,807</b>	<b>\$0</b>	<b>\$28,807</b>	

**PEOPLE'S TRANSPORTATION PLAN (PTP 80%)**

<b>REVENUE</b>					
FTA-SRTA DIESEL BUS	\$0				
TRANSPORTATION 80% PTP	\$925,000	\$925,000		\$925,000	
INSURANCE SETTLEMENT	\$0	\$0		\$0	
INTEREST EARNINGS	\$0	\$0		\$0	
TRANSFER IN FROM GENERAL FUND	\$0	\$0		\$0	
SR TRANSPORTATION BUDGET CARRYFORWARD	\$165,216	\$165,216		\$165,216	
<b>TOTAL REVENUES</b>	<b>\$1,090,216</b>	<b>\$1,090,216</b>	<b>\$0</b>	<b>\$1,090,216</b>	

<b>EXPENDITURE</b>					
REGULAR SALARIES	\$50,750	\$50,750		\$50,750	
PAYROLL TAXES	\$3,882	\$3,882		\$3,882	
FRS CONTRIBUTIONS	\$3,817	\$3,817		\$3,817	
HEALTH AND LIFE INSURANCE	\$20,382	\$20,382		\$20,382	
PROFESSIONAL SERVICES	\$20,000	\$20,000		\$20,000	
TRANSPORTATION STUDIES	\$50,000	\$50,000		\$50,000	
STREET LIGHTING UTILITIES	\$280,000	\$280,000		\$280,000	
STREET LIGHTING REPAIRS AND MAINT	\$110,000	\$110,000		\$110,000	
BIKEPATH/GREENWAY REPAIR & MAINT	\$25,000	\$25,000		\$25,000	
CONTINGENCY	\$88,859	\$88,859	-\$16,120	\$72,739	
ADMIN PTP EXP 5%	\$46,250	\$46,250		\$46,250	
LED LIGHT RETROFIT	\$365,000	\$365,000		\$365,000	
INFRASTRUCTURE - LIGHT POLES	\$0	\$0	\$16,120	\$16,120	Replacement light poles offset by insurance claim settlement
TRANSFER CAPITAL-TRANSPORTATION	\$26,276	\$26,276		\$26,276	
<b>TOTAL EXPENDITURES</b>	<b>\$1,090,216</b>	<b>\$1,090,216</b>	<b>\$0</b>	<b>\$1,090,216</b>	

**MOBILITY FEE TRUST ACCOUNT FUND**

<b>REVENUE</b>					
MOBILITY FEE	\$50,000	\$50,000		\$50,000	
BUDGET CARRYFORWARD	\$650,000	\$650,000		\$650,000	
<b>TOTAL REVENUES</b>	<b>\$700,000</b>	<b>\$700,000</b>	<b>\$0</b>	<b>\$700,000</b>	
<b>EXPENDITURE</b>					
CONTINGENCY RESERVES	\$0	\$0		\$0	
TRANSFER TO CAPITAL-TRANSPORTATION	\$700,000	\$700,000		\$700,000	
<b>TOTAL EXPENDITURES</b>	<b>\$700,000</b>	<b>\$700,000</b>	<b>\$0</b>	<b>\$700,000</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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**SPECIAL REVENUES - OTHER**

**REVENUE**

CONTRIBUTION FROM DEVELOPER	\$0	\$0		\$0	
BUDGET CARRYFORWARD	\$300,000	\$300,000		\$300,000	
<b>TOTAL REVENUES</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$0</b>	<b>\$300,000</b>	

**EXPENDITURE**

TRANSFER TO GENERAL FUND	\$0	\$0		\$0	
CONTINGENCY FOR EDUCATION	\$300,000	\$300,000		\$300,000	
<b>TOTAL EXPENDITURES</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$0</b>	<b>\$300,000</b>	

<b>TOTAL SPECIAL REVENUE FUND REVENUES:</b>	<b>\$3,153,840</b>	<b>\$3,153,840</b>	<b>\$0</b>	<b>\$3,153,840</b>	
<b>TOTAL SPECIAL REVENUE FUND EXPENDITURES:</b>	<b>\$3,153,840</b>	<b>\$3,153,840</b>	<b>\$0</b>	<b>\$3,153,840</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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**BUILDING DEPARTMENT FUND**

**REVENUE**

BUILDING PERMITS - TECHNOLOGY FEE	\$120,000	\$120,000		\$120,000	
BUILDING PERMITS - LOST PLANS	\$10,000	\$10,000		\$10,000	
BUILDING PERMITS	\$2,480,000	\$2,480,000		\$2,480,000	
BUILDING PERMITS - VIOLATION FEE	\$45,000	\$45,000		\$45,000	
INTEREST INCOME	\$0	\$0		\$0	
FUND BALANCE CARRYFORWARD	-\$9,492	-\$9,492		-\$9,492	
<b>TOTAL REVENUES</b>	<b>\$2,645,508</b>	<b>\$2,645,508</b>	<b>\$0</b>	<b>\$2,645,508</b>	

**EXPENDITURE**

REGULAR SALARIES	\$876,621	\$886,121		\$886,121	
EMPLOYEE BONUS/COLA	\$9,500	\$0		\$0	
PAYROLL TAXES	\$67,368	\$67,368		\$67,368	
FRS CONTRIBUTIONS	\$65,922	\$65,922		\$65,922	
HEALTH & LIFE INSURANCE	\$100,608	\$100,608		\$100,608	
WIRELESS STIPEND	\$1,920	\$1,920		\$1,920	
PROFESSIONAL SERVICES	\$0	\$215,000		\$215,000	
BLDG ELECT RECORDS STORAGE	\$3,000	\$3,000		\$3,000	
BUILDING PLANS REVIEW	\$0	\$0		\$0	
CONTRACTUAL SERVICES	\$1,000	\$1,000		\$1,000	
BUILDING CONTRACTUAL SERVICE	\$7,500	\$7,500		\$7,500	
BUILDING TRAVEL & PER DIEM	\$2,500	\$2,500		\$2,500	
CAR ALLOWANCE	\$18,000	\$18,000		\$18,000	
BUILDING COPIER LEASE	\$2,220	\$2,220		\$2,220	
CONTINGENCY	\$1,257,008	\$1,042,008	-\$47,000	\$995,008	Transfer for credit card transaction fees
SOFTWARE MAINTENANCE	\$34,036	\$34,036		\$34,036	
PRINTING & BINDING	\$600	\$600		\$600	
BUILDING ADMIN SUPPORT	\$125,364	\$125,364		\$125,364	
FINANCIAL INSTITUTION FEES	\$0	\$0		\$0	
BUILDING - CREDIT CARD FEES	\$18,000	\$18,000	\$47,000	\$65,000	Credit card transaction fees for Building Department permit activity
BUILDING - REMOTE ACCESS DEVIC	\$8,740	\$8,740		\$8,740	
BUILDING OFFICE SUPPLIES	\$2,500	\$2,500		\$2,500	
ISF-M OPERATING SUPPLIES	\$0	\$0		\$0	
BUILDING UNIFORMS & BADGES	\$4,000	\$4,000		\$4,000	
BOOKS/PUBLIC/SUBSCRIP/MEM	\$400	\$400		\$400	
NON CAP	\$0	\$0		\$0	
MACH & EQUIP	\$2,500	\$2,500		\$2,500	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$36,201	\$36,201		\$36,201	
TRANSFER TO GENERAL FUND	\$0	\$0		\$0	
		\$2,645,508	\$0	\$2,645,508	

<b>TOTAL BUILDING DEPARTMENT REVENUES</b>	<b>\$2,645,508</b>	<b>\$2,645,508</b>	<b>\$0</b>	<b>\$2,645,508</b>	
<b>TOTAL BUILDING DEPARTMENT EXPENSES:</b>	<b>\$2,645,508</b>	<b>\$2,645,508</b>	<b>\$0</b>	<b>\$2,645,508</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
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**CAPITAL PROJECTS FUND**

**FACILITIES AND EQUIPMENT IMPROVEMENT**

**REVENUES**

TRANSFER FROM IMPACT FEE FUND - POLICE	\$150,000	\$150,000		\$150,000
CAP PROJBUDGET CARRYFORWARD	\$136,181	\$123,581		\$123,581
<b>TOTAL REVENUES</b>	<b>\$286,181</b>	<b>\$273,581</b>	<b>\$0</b>	<b>\$273,581</b>

**EXPENDITURES**

MACHINERY & EQUIPMENT	\$174,765	\$162,165		\$162,165
TRANSFER TO GENERAL FUND	\$111,416	\$111,416		\$111,416
<b>TOTAL EXPENDITURES</b>	<b>\$286,181</b>	<b>\$273,581</b>	<b>\$0</b>	<b>\$273,581</b>

**PARKS IMPROVEMENTS**

**REVENUES**

FDOT - 2017 HIGHWAY BEAUTIFICATION GRANT	\$0	\$100,000		\$100,000
CAP PARKS BUDGET - CARRYFORWARD	\$308,588	\$662,513		\$662,513
GF TRANS PARKS OTHER	\$100,000	\$484,172		\$484,172
TRANS FR PARKS IMPACT FEE FUND	\$370,000	\$734,900		\$734,900
<b>TOTAL REVENUES:</b>	<b>\$778,588</b>	<b>\$1,981,585</b>	<b>\$0</b>	<b>\$1,981,585</b>

**EXPENDITURES**

DOG PARK	\$0	\$121,927	<b>\$38,000</b>	\$159,927	Completion of dog park construction to include water fountain lines, dry wells, rule signs, name plaque. Total cost of project \$238,000
CIP RESERVE FOR PARKS	\$128,588	\$125,702		\$125,702	
IT INFRASTRUCTURE	\$0	\$51,067		\$51,067	
WEST LAKE NEIGHBORHOOD REFORESTATION PRC	\$100,000	\$100,000		\$100,000	
<b>TOTAL CLS ADMINISTRATIVE PROJECTS:</b>	<b>\$228,588</b>	<b>\$398,696</b>	<b>\$38,000</b>	<b>\$436,696</b>	

FDOT HIGHWAY BEAUTIFICATION	\$0	\$200,000		\$200,000
BMP - 154TH STREET AND PALMETTO	\$0	\$100,000		\$100,000
<b>TOTAL GREENWAY AND TRAILS:</b>	<b>\$0</b>	<b>\$300,000</b>	<b>\$0</b>	<b>\$300,000</b>

ROP COMM CTR PLAYGROUND	\$0	\$21,872		\$21,872
ROP BALLFIELDS IMPROVEMENTS	\$0	\$45,000		\$45,000
<b>TOTAL ROYAL OAKS PARK PROJECTS:</b>	<b>\$0</b>	<b>\$66,872</b>	<b>\$0</b>	<b>\$66,872</b>

PLAY PLAYGROUND RENOVATION	\$0	\$0		\$0
MINI PARKS COMM CENT EAST	\$0	\$20,315		\$20,315
<b>TOTAL PARK -EAST (YOUTH CENTER):</b>	<b>\$0</b>	<b>\$20,315</b>	<b>\$0</b>	<b>\$20,315</b>

MINI PARKS COMM CENT WEST	\$155,000	\$155,000		\$155,000
<b>TOTAL PARK - WEST (MARY COLLINS):</b>	<b>\$155,000</b>	<b>\$155,000</b>	<b>\$0</b>	<b>\$155,000</b>

MLOP CLUBHOUSE	\$0	\$528,402	<b>\$120,000</b>	\$648,402	Furniture and fixtures for Optimist that were not included in the design, construction, project management and permitting cost.
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**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
MLOP MARINA	\$140,000	\$140,000	-\$120,000	\$20,000	Savings from Marina improvements. Transfer for furniture and fixtures at Optimist Clubhouse
MLOP STORAGE FACILITY	\$80,000	\$80,000	-\$38,000	\$42,000	Storage facility improvements to commence in FY2018. Transfer to complete dog park construction
MLOP MASTER PLAN	\$100,000	\$100,000		\$100,000	
MLOP W&S CONNECT -CURR CONST	\$0	\$0			
<b>TOTAL MIAMI LAKES OPTIMIST PARK</b>	<b>\$320,000</b>	<b>\$848,402</b>	<b>-\$38,000</b>	<b>\$810,402</b>	
MINI PARKS IMPROVEMENTS	\$50,000	\$167,300		\$167,300	
<b>TOTAL MINI PARKS</b>	<b>\$50,000</b>	<b>\$167,300</b>	<b>\$0</b>	<b>\$167,300</b>	
BRIDGE PARK	\$25,000	\$25,000		\$25,000	
PAR 3 PARK	\$0	\$0		\$0	
PASSIVE PARK DEVELOPMENT	\$0	\$0		\$0	
<b>TOTAL PASSIVE PARK DEVELOPMENT</b>	<b>\$25,000</b>	<b>\$25,000</b>	<b>\$0</b>	<b>\$25,000</b>	
<b>TOTAL PARKS IMPROVEMENTS EXPENDITURES</b>	<b>\$778,588</b>	<b>\$1,981,585</b>	<b>\$0</b>	<b>\$1,981,585</b>	

**TRANSPORTATION IMPROVEMENTS**

<b>REVENUES</b>					
SECOND LOC OPT GAS TAXE 3 cent	\$164,080	\$164,080		\$164,080	
MPO GRANT	\$40,000	\$40,000		\$40,000	
SAFE ROUTES TO SCHOOL	\$0	\$111,981		\$111,981	
STATE GRANT	\$0	\$100,000		\$100,000	
TRANSF F/SRF PTP	\$26,276	\$26,276		\$26,276	
TRANSF FROM MOBILITY FEE FUND	\$700,000	\$700,000		\$700,000	
CAPTRANSB BUDGET CARRYFORWARD	\$944,888	\$1,286,342		\$1,286,342	
<b>TOTAL REVENUES</b>	<b>\$1,875,244</b>	<b>\$2,428,679</b>	<b>\$0</b>	<b>\$2,428,679</b>	
<b>EXPENDITURES</b>					
TRAFFIC CALMING	\$0	\$0		\$0	
CIP RESERVE FOR TRANSPORT		\$18,910		\$18,910	
BUS SHELTER ACQUISITION	\$0	\$0		\$0	
59TH AVENUE EXTENSION, PUBLIC WORKS	\$191,334	\$191,334		\$191,334	
TRANSP LAKE SARAH IMPROV	\$170,660	\$170,660		\$170,660	
SAFE ROUTES TO SCHOOL ALONG MLS	\$0	\$233,481		\$233,481	
HUTCHINSON ROADWAY & DRAINAGE IMPR	\$74,750	\$74,750		\$74,750	
BEAUTIFICATION	\$0	\$48,592		\$48,592	
BEAUTIFICATION FDOT	\$0	\$147,597		\$147,597	
WINDMILL GATE ROAD IMPROVEMENTS	\$350,000	\$395,415		\$395,415	
PALMETTO & NW 67TH AVENUE	\$0	\$164,000		\$164,000	
GREENWAY AND TRAILS STRIPING	\$0	\$5,143		\$5,143	
PEDESTRIAN CROSSWALKS	\$0	\$20,358		\$20,358	
164TH STREET & NW 87TH AVENUE	\$18,500	\$1,439		\$1,439	
MIAMI LAKES GREEN (NW 77TH CT GREENWAY	\$140,000	\$72,000		\$72,000	
154TH STREET & 77TH COURT	\$130,000	\$0		\$0	
COMPLETE STREETS IMPLEMENTATION PLAN	\$50,000	\$50,000		\$50,000	
BICYCLE/PEDESTRIAN IMPROVEMENTS	\$50,000	\$100,000		\$100,000	
146TH STREET UNDERPASS BRIDGE	\$170,000	\$170,000		\$170,000	
160TH STREET UNDERPASS BRIDGE	\$170,000	\$170,000		\$170,000	
ADAPTIVE SIGNALIZATION PROGRAM	\$360,000	\$290,000		\$290,000	
82ND AVENUE & OAK LANE RECONFIGURATION		\$70,000		\$70,000	
64th AVENUE MILLING AND RESURFACING		\$35,000		\$35,000	
<b>TOTAL EXPENDITURES:</b>	<b>\$1,875,244</b>	<b>\$2,428,679</b>	<b>\$0</b>	<b>\$2,428,679</b>	

**TOWN OF MIAMI LAKES**  
**FY 2016-17 AMENDED BUDGET**  
Revenue and Expenditure by Line Item

ACCOUNT NAME/DESCRIPTION	FY2016-17 ADOPTED BUDGET	FY2016-17 AMENDED BUDGET	REVISION 09/05/17	FY2016-17 AMENDED BUDGET	AMENDED BUDGET COMMENTS
<b><u>STORMWATER IMPROVEMENTS</u></b>					
<b>REVENUES</b>					
STORMWATER GRANTS	\$300,000	\$425,000		\$425,000	
STORMWATER GRANTS - CANAL BANK	\$678,500	\$724,072		\$724,072	
CAPITAL SW BUDGET CARRYFORWD	\$422,023	\$646,492		\$646,492	
TRANSF IN-PEOPLES TRANSPORTATION PRGM	\$0	\$0		\$0	
TRANSF IN-STORMWATER	\$468,967	\$468,967		\$468,967	
<b>TOTAL REVENUES:</b>	<b>\$1,869,490</b>	<b>\$2,264,531</b>	<b>\$0</b>	<b>\$2,264,531</b>	
<b>EXPENDITURES</b>					
ROYAL OAKS DRAINAGE & ROADWAY IMPROVS	\$0	\$0		\$0	
CANAL BANK STABILIZATION	\$678,500	\$901,072		\$901,072	
LAKE SARAH IMPROVEMENT	\$1,150,740	\$1,275,740		\$1,275,740	
HUTCHINSON ROADWAY & DRAINAGE IMPR	\$40,250	\$40,250		\$40,250	
OPERATING CONTINGENCY- STORM	\$0	\$47,469		\$47,469	
<b>TOTAL EXPENDITURES:</b>	<b>\$1,869,490</b>	<b>\$2,264,531</b>	<b>\$0</b>	<b>\$2,264,531</b>	
<b>TOTAL CAPITAL FUND PROJECTS REVENUES</b>	<b>\$4,809,503</b>	<b>\$6,948,376</b>	<b>\$0</b>	<b>\$6,948,376</b>	
<b>TOTAL CAPITAL FUND PROJECTS EXPENDITURES</b>	<b>\$4,809,503</b>	<b>\$6,948,376</b>	<b>\$0</b>	<b>\$6,948,376</b>	



## **Town of Miami Lakes Memorandum**

---

**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** Evelyn Roig Settlement with TOML  
**Date:** 9/5/2017

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### **Recommendation:**

It is recommended that the Town Council approve a proposed Settlement Agreement between Ms. Evelyn Roig and the Town of Miami Lakes.

### **Background:**

Ms. Evelyn Roig is a former employee who worked for the Town from April 2004 to February 2009. Ms. Roig served as Acting Town Manager after my departure from the Town in September 2008. Ms. Roig was terminated by Town Manager Frank Bocanegra in February 2009. Following her termination, Ms. Roig filed a lawsuit against the Town of Miami Lakes in the 11th Judicial Circuit in and for Miami-Dade County, Florida, based on the Florida Whistleblower's Act (Case No. 09-56353 CA 24). The case was dismissed by the District Court of Appeals in July 2012.

After dismissal of the case, the Town moved for the Court to issue a final judgment in favor of the defendant (Town of Miami Lakes) for attorney's fees and costs in the amount of \$3,516.50. During the time of this case, the Town did not incur additional attorney's fees, as counsel was on an annual retainer.

Ms. Roig has expressed her interest (attached) in settling this matter by paying the Town \$200.00. While the Town denies any of the allegations in her case, which ultimately were dismissed by the Court of Appeals, it is in the Town's interest to move forward by ending any pending matters pertaining to this former employee.

### **ATTACHMENTS:**

Description

Resolution

Letter from Evelyn Roig

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING AND RATIFYING THE TERMS AND CONDITIONS OF A SETTLEMENT AGREEMENT PERTAINING TO THE FOLLOWING MATTER EVELYN ROIG v. TOWN OF MIAMI LAKES (CASE NO. 2009 56353 CA 24); PROVIDING FOR AUTHORIZATION; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, in 2009, Ms. Evelyn Roig file a Complaint against the Town of Miami Lakes (the “Town”) pursuant to Florida’s Whistleblower Act; and

**WHEREAS**, during the month of July 2013, the Third District Court of Appeals affirmed the Circuit Court’s dismissal of Ms. Evelyn Roig’s Complaint; and

**WHEREAS**, after dismissal of the case, the Town moved for attorney’s fee and costs in the amount of \$3,516.50

**WHEREAS**, during this time, the Town did not incur additional attorney’s fees; and

**WHEREAS**, Mrs. Evelyn Roig has expressed her interest to settle this matter by paying the Town \$200.00;

**WHEREAS**, the Town Manager believes it is in the Town’s best interest to end this matter pertaining to a former employee; and

**WHEREAS**, the Town Council finds that settlement with Mrs. Evelyn Roig is in the best interest of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:**

**Section 1. Recitals.** That the above-stated recitals are hereby adopted and confirmed.

**Section 2. Approval and Ratification.** The Settlement Proposal for settlement by Ms. Evelyn Roig which is hereby attached is accepted and approved.

**Section 3. Authorization and Execution** The Town Manager, the Town Attorney, are authorized to take all actions necessary to implement the terms and conditions of the Settlement Proposal.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

\*\*\*\*\* THIS SECTION HAS BEEN LEFT PURPOSEFULLY BLANK\*\*\*\*\*

**PASSED AND ADOPTED** this 25<sup>th</sup> day of July, 2017.

The foregoing Resolution was moved for adoption by \_\_\_\_\_ and seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

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Manny Cid  
MAYOR

Attest:

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Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY








**EVELYN ROIG**

August 2, 2017

**VIA ELECTRONIC MAIL**

Mr. Alex Rey  
Town Manager  
Town of Miami Lakes  
6601 Main Street  
Miami Lakes, FL 33014

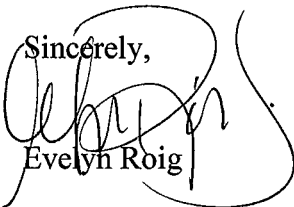
**Re: Evelyn Roig vs. Town of Miami Lakes Case No. 09-5653 CA 24**

  
Dear Mr. Rey:

In an effort to settle a judgment that was filed against me the by Town of Miami Lakes, I am respectfully offering a settlement in the amount of \$200.00.

I look forward to hearing from you and seek closure in this matter.

Sincerely,

  
Evelyn Roig

cc: Raul Gastesi, Esq., Town Attorney



## **Town of Miami Lakes Memorandum**

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**To: Honorable Mayor and Councilmembers**  
**From: Alex Rey, Town Manager**  
**Subject: Authorizing Bid Waiver for Extension of Generator Rental Agreement**  
**Date: 9/5/2017**

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### **Recommendation:**

It is recommended that the Town Council authorize a waiver of the competitive solicitation process under Section 5(d) of Ordinance 12-142 and authorize the Town Manager to extend our current rental agreement with Pantropic Power to reserve an emergency generator until October 31, 2017.

The total cost to rent the generator for the period June 1 to October 30, 2017 is \$23,795. Since the rental period extends to the next fiscal year where \$4,800 is proposed in the FY 2017-18 Budget, a transfer of \$19,175 is required for FY17 for the period June 1 – September 30, 2018. Funds will be taken from Administration Health and Life Insurance line item where there is a surplus, to the Hurricane Expenses line item in Administration to cover the cost of the emergency generator.

### **Background:**

The Town funded the acquisition of a permanent generator and the construction of a generator storage area in the current fiscal year. To that end, it contracted Basulto & Associates, Inc. to provide design and consulting services for the purchase and installation of a permanent generator for the Government Center. The Town also received authorization from the Town Council to piggyback a National Joint Purchasing Alliance (“NJPA”) contract with Pantropic Power for the purchase of a generator.

However, as we were able to get a more detail cost related to the purchase of the generator and construction of the storage area, the estimate for the total project escalated to approximately \$270,000. At this point, we re-evaluated all of the possible alternatives, and have determined that our best option is to purchase a portable generator for an estimated \$125,000. This generator will be store off-site.

Given the change in plans and the lack of sufficient time to prepare a solicitation for another back-up generator, it is not practical to comply with the requirements of Section 5 of Ordinance 12-142. Instead, the Town should extend the rental agreement already in place to secure a back-up generator for the remainder of the hurricane season.

For the reasons stated above, it is recommended that the Town Council authorize a waiver of the competitive

solicitation process under Section 5(d) of Ordinance 12-142, and authorize the Town Manager to extend our current rental agreement with Pantropic Power to reserve an emergency generator until October 31, 2017.

**ATTACHMENTS:**

Description

Resolution

Rental Extension

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING THE PROCUREMENT COMPETITIVE BIDDING PROCESS; AUTHORIZING THE TOWN MANAGER TO EXTEND THE CURRENT RENTAL AGREEMENT WITH PANTROPIC POWER, INC. TO COVER THE REMAINDER OF THE HURRICANE SEASON; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; MODIFYING BUDGETED LINE ITEMS; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, throughout history, as part of the Town of Miami Lakes' (the "Town's") hurricane preparedness plan, the Town reserves an emergency generator for use in the event of a catastrophic power loss as the result of a major storm; and

**WHEREAS**, the Town contracted with Basulto and Associates, Inc. to provide design and consulting services for the purchase and installation of a permanent generator for the Government Center, and received authorization from the Town Council to piggyback a National Joint Purchasing Alliance contract with Pantropic Power for the purchase and installation of a permanent generator; and

**WHEREAS**, through due diligence, the Town discovered that the purchase cost of a generator and associated construction to house the generator would increase the projected total cost of the project to \$270,000; and

**WHEREAS**, the Town has decided that a purchase of a mobile generator, housed off site, is a better alternative; and

**WHEREAS**, since the Town is in the midst of hurricane season, time is of the essence to secure a generator, and insufficient time exist for the purchase of a mobile generator; and

**WHEREAS**, the Town Manager believes it is in the best interest of the Town to extend our existing generator lease to guarantee power to Government Center in the event of a major storm during hurricane season; and

**WHEREAS**, Section 5(d) of Town of Miami Lakes Ordinance 12-142 (the “Town’s Procurement Ordinance”) authorizes the Town Manager to request authorization from the Town Council to waive the requirements of Section 5 of the Town’s Procurement Ordinance where the Town Manager has made a written recommendation where, based on specific circumstances, it is not practical to comply with the requirements of Section 5 of the Town’s Procurement Ordinance for a specific solicitation; and

**WHEREAS**, the Town Manager has made a written recommendation that based on specific circumstances, it is not practical to comply with the requirements of Section 5 of the Town’s Procurement Ordinance for the extension of a rental agreement with Pantropic Power, Inc. (the “Rental Agreement”); and

**WHEREAS**, the total cost to extend the lease agreement for a generator, for the period June 1, 2017 through October 30, 2017 is \$23,795.00; and

**WHEREAS**, the rental period extends to the next fiscal year, where \$4,800 will be proposed for the 2017 -18 Town budget, accordingly, a transfer of \$19,175.00 is required for the period of June 1, 2017 through September 30, 2017; and

**WHEREAS**, a budget transfer of \$19,175.00 from the Administrative Health and Life Insurance line item, where there is a surplus, is required to cover the \$23,795.00 needed to rent a generator; and

**WHEREAS**, Section 4 of Ordinance No. 16-197 authorizes the Town Council to modify any department, category total or line item of the Budget by resolutions so long as the modification does not exceed the Town's total budgeted funds for the Fiscal Year 2016-2017; and

**WHEREAS**, the Town Council, in accordance with Section 4 of Ordinance No. 16-197, has determined that it is necessary to modify the Budget as set forth in Exhibit "A" attached hereto; and

**WHEREAS**, the Town Council approves of the Town Manager's recommendations, authorizes a waiver of the requirements of Section 5 of the Town's Procurement Ordinance as it pertains to the Rental Agreement, authorizes a modification to the Budget, and authorizes the Town Manager to extend the term of the Rental Agreement until October 31, 2017.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.**     The foregoing Recitals are true and correct and incorporated herein by this reference.

**Section 2.**     **Approval of the Contract.**     The Town Council hereby approves the Rental Extension Agreement through October 31, 2017, attached hereto as Exhibit "A."

**Section 3.**     **Authorization of Town Officials.**     The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Rental Agreement.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Rental Agreement with Pantropic Power, Inc.

**Section 5. Line Item Modification.** The Budget for Fiscal Year 2016-2017 adopted in Section 2 of Ordinance 16-197, and subsequently modified by Ordinance 17-199, is hereby modified, as reflected in Exhibit A attached hereto. The revisions for each line item are within the approved expenditure authority for Fiscal Year 2016-2017. The Town Council hereby modifies the budget as set forth therein and authorizes the Town Manager to administratively adjust line items to reflect audit adjustments or line item revisions necessary to close out the Fiscal Year within each department's expenditure authority.

**Section 6. Execution of the Agreement.** The Town Manager is authorized to execute and extend the Rental Agreement with Pantropic Power, Inc. until October 31, 2017 for the rental of a back-up generator for the Government Center.

**Section 7. Effective Date.** This Resolution shall take effect immediately upon adoption.

**THIS SPACE INTENTIONALLY LEFT BLANK**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The foregoing resolution was offered by \_\_\_\_\_ who moved its adoption. The motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

---

Manny Cid  
MAYOR

Attest:

---

Gina Inguanzo  
TOWN CLERK

Approved as to form and legal sufficiency:

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Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY



# **EXHIBIT A**

Rental Agreement with Pantropic Power, Inc.



**Pantropic Power, Inc.**  
**One Source, One Call, One Solution**  
[www.pantropic.com](http://www.pantropic.com)  
 8205 NW 58th ST  
 Miami, FL 33166

## 2017 Hurricane Season Contingency Agreement

Date: 8/17/2017  
 Quotation # RAG08172017-1  
 Customer ID: 004039  
 Quotation valid until: 9/16/2017

**Quotation For** Mr. Thomas Fossler  
 Town of Miami Lakes  
 6601 Main Street  
 Miami Lakes, FL 33014

**JOBSITE: Town of Miami Lakes**  
 Name: Government Center  
 Address: 6601 Main Street  
 Miami Lakes, FL 33014

**Roberto Garcia**  
 Email: Roberto\_Garcia@pantropic.com  
 Phone: (305) 592-4944 ext.3022  
 Fax: (305) 675-3163  
 Cell: (305) 970-5902

Contact: Mr. Thomas Fossler  
 Phone: 305-364-6100 Ext. 1164  
 Fax:  
 Cell:  
 Email: [fossler@miamilakes-fl.gov](mailto:fossler@miamilakes-fl.gov)

The total cost is the same as your previous rental in 7-15-2014.

START DATE	ESTIMATED END DATE	TOTAL MONTHS	TAXABLE?	INSURANCE?	TERMS OF PAYMENTS
9/5/2017	10/31/2017	2	No	Yes	CC

### II. Equipment Details

QUANTITY	Item ID	DESCRIPTION	UNIT PRICE	AMOUNT
1	XQ300	300 KW Caterpillar Portable Generator Package Power Requirements: 277-480 Volts / 3Ø / 60 Hz Fuel Capacity: 400 US Gallons Fuel Consumption: 16.8 gallons per hour @ 3/4 load We reserve the right to upsize based on availability at same cost.	\$ 4,082.18	\$ 4,082.18
8	4_Odd_50_Ft	4/0 50' Cam Lok Cable	\$ 60.00	\$ 480.00
8	4_Odd_Female_Lugged	4/0 Female Lugged Pigtail	\$ 12.00	\$ 96.00
8	4_Odd_Male_Bare	4/0 MB Pigtail	\$ 12.00	\$ 96.00
	Rental_Evf	Environmental Fee	1%	\$ 40.82
				\$ -
				\$ -
				\$ -
				\$ -
MONTHLY SUBTOTAL				\$ 4,795.00
GRAND TOTAL				\$ 9,590.00
TRANSPORTATION				\$ -
TAX RATE				
SALE TAX				\$ -
OTHER				
ESTIMATED AMOUNT DUE				\$ 9,590.00
Discount if paid in full by				
TOTAL WITH DISCOUNT				

\*Notes: Usage rates shown below are based on hours of operation and apply when equipment has been run in excess of the 20 hours allowed monthly for testing and exercising of equipment.

### III. Usage and additional requirement rates

Monthly single shift 40 hour rate:	\$ 25.60 / hr
Monthly double shift 80 hour rate:	\$ 19.20 / hr
Monthly continuous 168 hour rate:	\$ 17.10 / hr

ESTIMATED AMOUNT DUE \$ 9,590.00  
 Discount if paid in full by  
 TOTAL WITH DISCOUNT

### IV. Fueling:

1. The cost of the initial tank of fuel may be prepaid at acceptance of contract 400 gallons of fuel are offered at market price. Fuel consumption on this generator is \_16.8\_ gallons per hour at 3/4 load. Estimated fuel required over one week period running continuous operation is \_2,822\_ gallons.

2. Customers who do not elect to prepay for initial fuel delivered with generator are subject to a refueling service charge of at least \$7.00 per gallon for shortages upon return of equipment.

3. Pantropic Power Inc. may be contracted to provide fueling for generator at market price at time of delivery. All deliveries are subject to a 200 gallon minimum purchase or a \$250.00 delivery fee will be charged in addition to fuel cost.

4. Pantropic will provide top-off service and fuel dispensed will be at market price. Customer may elect this service: ☐ Yes ☐ No if Yes, please provide initials \_\_\_\_\_

### V. Equipment Location:

1. Customer at their option may elect to have the above mentioned equipment delivered to their location at the beginning of the rental period or have the above mentioned equipment stored and maintained at Pantropic Power's facility.

2. In the event of a natural disaster that may cause logistical difficulties with transportation and/or communications, Pantropic Power is not liable for delivery until such time that the delivery of equipment can be made without harm to personnel and equipment. Weather permitting, Pantropic Power shall use its best efforts to deliver the equipment in a prompt manner.

**Miami**  
 8205 NW 58 Street  
 Miami, FL 33166  
 305.592.4944 tel  
 305.477.1943 fax

**Fort Lauderdale**  
 2501 State Road 84  
 Ft. Lauderdale, FL 33312  
 954.797.7972 tel  
 954-791-7719 fax

**West Palm Beach**  
 5460 Okeechobee Boulevard  
 West Palm Beach, FL 33417  
 561.640.0818 tel  
 561.640.7894 fax



Pantropic Power, Inc.  
One Source, One Call, One Solution

## 2017 Hurricane Season Contingency Agreement

Date: 8/17/2017

3. Notwithstanding anything contained herein to the contrary, Pantropic Power will deliver to customer within seventy-two (72) hours of customer request, all rented equipment per this fully executed rental agreement for any natural disaster, hurricane, tornado, and or any other interruption in electrical service. Customer is responsible for calling Pantropic Power to request the delivery of the above mention equipment.

4. Pantropic Power will make every reasonable effort to contact customer in the event of an emergency, to inquire if the equipment will be needed. Upon contact made by Pantropic Power the customer will have four (4) hours to initiate a commitment for delivery or release Pantropic Power of the 72 hour delivery commitment. If after a release has been given the customer request delivery of the equipment, it will be delivered with the first available delivery vehicle after the delivery request is received.

### **VI. Delivery & Transportation:**

1. Delivery and transport charges are based on one roundtrip movement of equipment to and from the same location. Delivery charges do not include driver waiting time while on site waiting to deliver or pick up equipment. Waiting time will be billed at \$42.00 per 1/2 hour or portion of.

2. Roundtrip transport charges within Broward County will be charged at **\$500.00** per delivery.

### **VII. Customer Responsibilities:**

1. Customer shall provide a certificate of insurance naming Pantropic, Power as additionally insured and loss payee for equipment value as specified in Section VIII. Item 6. Certificate of insurance must be provided prior to delivery of equipment or customer will be charged for Loss Waiver.

2. Customer is responsible to acquire and display all necessary permits and inspections required by municipalities, county, and state governmental agencies.

3. Customer is responsible for connections and disconnections of above referenced equipment.

4. Servicing of unit will be required every **250** hours intervals and will be charged to Lessee on a time and materials basis. Neglect or abuse on customers' behalf is subject to additional charges.

5. Customer is responsible for the security of all rented equipment.

6. Customer's taking delivery of the equipment will be required to provide a **20amp 110volt** electrical outlet and a 12 AWG grounded extension cord of adequate length for connection of generator battery charging system.

7. Customer is required to provide a well ventilated, clean, level, and free from overhead obstruction location for delivery and placement of generator.

### **VIII. General Terms and Conditions:**

1. Equipment is subject to prior sale or rental.

2. Payments are due the first of every month for each month of the hurricane contingency contract.

3. Customer may elect to provide insurance coverage certificate naming Pantropic Power Inc. as additionally insured and Loss Payee for replacement value of \$ 110,000 for rented equipment, or purchase loss waiver at the rate of \$ 69.13 week or \$ 276.50 a month while equipment is in possession of customer. Waiver is subject to a \$1,000.00 per incident deductible for theft or non-abuse damage.

4. Either party may cancel this agreement with **30** days notice.

5. Purchase loss waiver at **14%** of rental rate

6. No alteration or modification to rented equipment is permitted. Customers will be charged for the equipment replacement cost for any such alteration or modification made in an effort to customize equipment to the particular form, fit, or function of their application.

Pantropic Power Inc.

Roberto Garcia

*Roberto Garcia*

Rental Sales

Date:

Company: Town of Miami Lakes

Contact Name: Mr. Thomas Fossler

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Miami**  
8205 NW 58 Street  
Miami, FL 33166  
305.592.4944 tel  
305.477.1943 fax

**Fort Lauderdale**  
2501 State Road 84  
Ft. Lauderdale, FL 33312  
954.797.7972 tel  
954-791-7719 fax

**West Palm Beach**  
5460 Okeechobee Boulevard  
West Palm Beach, FL 33417  
561.640.0818 tel  
561.640.7894 fax



## **Town of Miami Lakes Memorandum**

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**To: Honorable Vice-Mayor and Councilmembers**  
**From: Honorable Mayor Manny Cid**  
**Subject: Police Civil Citations**  
**Date: 9/5/2017**

---

### **Recommendation:**

\*This New Business Item was deferred from the July 25, 2017 Council Meeting.

Pursuant to discussion with County Commissioner Sally Heyman, I would like to recognize the success of Miami-Dade County Ordinance 15-47 relating to police issued civil penalties for certain misdemeanor violations. The use of civil citations to cite violators has proven to be an effective and efficient method of educating the public and penalizing subjects. The civil citation process provides additional law enforcement options while allowing police to continue to exercise their discretion.

Effective July 10, 2015, the following misdemeanor crimes were added to section 8CC of the Miami-Dade County Code (MDCC) making them enforceable as civil citations.

- Florida Litter Law
- Illegal Use of Dairy Cases
- Trespass on Property other than a Structure of Conveyance
- Retail Theft by Removal of a Shopping Cart
- Loitering and Prowling
- Possession of Marijuana in an amount of 20 grams or less
- Possession of Drug Paraphernalia

Since July 2015, Miami Lakes law enforcement has been able to exercise effective community driven policing techniques thereby reducing the number of arrests for listed misdemeanor crimes from approximately 175, in the two years prior to the enactment of this legislation, to only 50 arrests in the two years since the law has been in place. This is a reduction of over 70%. Giving the officers the option, TML officers could have made over 300 arrests after this program was implemented in 2015, but chose to issue approximately 250 Civil Citations, in lieu of arrests. A civil citation does not equal arrest; no negative bearing on school admissions, scholarships, military service, bonded jobs, etc.

I would like to direct the Town Manager and Town Attorney to prepare a resolution in support of this program to remit to the Board of County Commissioners and the Miami-Dade County Mayor.

Fiscal Impact: Small



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Honorable Councilmember Ceasar Mestre  
**Subject:** Public Safety  
**Date:** 9/5/2017

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### **Recommendation:**

I respectfully request staff to investigate the previously discussed License Plate Recognition Software and its fiscal impact. This system has become an effective public safety tool in neighboring municipalities.

Fiscal Impact: Low (update study only)



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Honorable Vice Mayor Nelson Rodriguez  
**Subject:** Public Records Requests  
**Date:** 9/5/2017

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### **Recommendation:**

I'm respectfully asking the Town Clerk to update the Town Council on how the Public Record Requests are managed and addressed.

Fiscal Impact: Low



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Vice-Mayor and Councilmembers  
**From:** Honorable Mayor Manny Cid  
**Subject:** Town Manager Selection Process  
**Date:** 9/5/2017

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### **Recommendation:**

#### Town Manager Selection Process

Our current Town Manager has applied for the vacant position in the City of Aventura. Aventura's City Commission will select finalist on October 3rd and Interview them on October 12th. I would like to have a discussion with my colleagues regarding the possible vacancy of our Chief Administrative Officer.

If the process to hire a new manager begins in October or in 2018, I intend to appoint Robert Meador to serve on the citizens committee which will review the resumes.

Fiscal Impact: Low





## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Honorable Councilmember Ceasar Mestre  
**Subject:** Flooding  
**Date:** 9/5/2017

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### **Recommendation:**

I respectfully request staff to search for a solution to the flooding occurring between NW 162nd St and NW 158th Ter on 83rd Place.

Fiscal Impact: High



## **Town of Miami Lakes Memorandum**

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**To: Mayor and Councilmembers**  
**From: Honorable Vice Mayor Nelson Rodriguez**  
**Subject: Helping out the victims of Hurricane Harvey**  
**Date: 9/5/2017**

---

### **Recommendation:**

\* This item will require a waiver of Section 7.2 of the Special Rules of Order of the Town of Miami Lakes. Miami Lakes is a blessed and generous community that always helps people in need; thus, I would like us to help out our brothers and sisters in Houston, Texas.

I have received numerous calls from residents asking me how can the Town of Miami Lakes help the victims of Hurricane Harvey. I have received emails from OEM, both local and federal level, recommending not to collect supplies, but rather have people donate money to charities.

Thus, for the aforesaid reasons above, I kindly request that the Town of Miami Lakes collaborates and join efforts with the Miami-Dade County Public Schools in their commitment to aid the children victims of this Hurricane, once they are ready to return to their schools.

Fiscal Impact: TBD



## **Town of Miami Lakes Memorandum**

---

**To:** Honorable Vice-Mayor and Councilmembers  
**From:** Honorable Mayor Manny Cid  
**Subject:** Protecting the Miami Lakes Brand  
**Date:** 9/5/2017

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### **Recommendation:**

In an effort to continue to protect and enhance our brand, I would like to direct staff to trademark/register the name "Miss Miami Lakes."

The Miami Lakes brand took decades to build up to what it is today and I want to ensure that we take all the steps necessary to preserve our brand.

Fiscal Impact: \$ 3,000



## **Town of Miami Lakes Memorandum**

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**To:** Honorable Vice-Mayor and Councilmembers  
**From:** Honorable Mayor Manny Cid  
**Subject:** Florida League of Cities Annual Conference  
**Date:** 9/5/2017

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## **Town of Miami Lakes Memorandum**

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** FL SUN Solar Co-Op Program  
**Date:** 9/5/2017

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**Background:**

Please see attached request from Florida Solar United Neighborhoods, FLSun.org.

**ATTACHMENTS:**

Description

FL Sun Solar Co-Op Program letter



FLSUN.ORG

Greetings Mayor Cid and Miami Lakes leaders,

I wanted to take a moment and introduce myself - I'm Jody Finver, the Miami Dade Solar Co-Op Coordinator for [FLSUN](https://FLSUN.org).

Perhaps you have heard about us in the [news](#), but if you haven't, FL SUN is a non-partisan, non-profit that helps homeowners throughout Florida go solar by pooling their purchasing power and obtaining bulk discount rates on their individual installation.

FL SUN is a partnership between the two other non-partisan/non-profits - The League of Women Voters Florida and Community Power Network. We have launched 16 co-ops in the state and have helped hundreds of Floridians go solar while growing the solar industry and creating local jobs right here, in our own communities. The Miami co-ops are made possible through a grant from the Green Corridor. Over the next year I am launching and managing six solar co-ops across our county. We just completed two co-ops with more than 220 members and I have already launched our next two. One of these co-ops, [Northern Miami-Dade](#), includes Miami Lakes.

There is no cost to join or obligation to go solar through the co-op. Our organization is a neutral consumer advocate through the entire process. We don't endorse a product, installer or means of financing. As soon as 30 homes with nice, sunny roofs join, we issue a statewide RFP to licensed installers. By presenting a large group of qualified homes to an installer, they are able to make purchases in bulk and pass savings along to homeowners. We review the estimates thoroughly and compile a spread sheet comparing all the estimates apples-to-apples. Members of the co-op volunteer to be on a Selection Committee - these homeowners review the estimates and, based on the criteria of their fellow co-op members, select one installer to service the co-op. This installer then provides each homeowner with a customized proposal for their home based on guaranteed pricing from their RFP. If a homeowner chooses to move forward with an installation, I supervise as their co-op project manager making sure things are running smoothly. I assist both the installer and homeowner throughout the entire process.

Our co-ops have celebrated the endorsement via unanimously passed resolutions from the Miami-Dade County Commission, South Miami Commission, Miami Shores Village Council and City of Miami Commission. These partnerships make all the difference in spreading the word to constituents. Cutler Bay and Palmetto Bay are on deck.

In each co-op, I conduct two to three community information sessions (roughly 90 minutes including Q&A) explaining solar basics, how our co-ops work and various ways a homeowner can finance their system. I am in the process of scheduling information sessions for our Northern Miami-Dade co-op and would like to conduct one for the residents of Miami Lakes.

**Would your office be able to help me organize an information session (perhaps at your town hall) on November 9 at 7PM?** We would need seating for at least 50 people (upward to 75 or 100), Powerpoint access (though I have my own projector), an empty wall or screen, some tables to check in attendees, a microphone, and if possible WiFi - homeowners tend to mob us afterward to sign up and join the co-op on the spot.

We have had successful information sessions at City of Miami City Hall (organized by City of Miami Commissioner Russell), Pinecrest Community Center (organized by Mayor Lerner and Mayor Corradino) Key Biscayne Community Center (organized by the Key Biscayne Community Foundation), and have three scheduled at the Coral Gables Adult Center (organized by Coral Gables Commissioner Lago), Unitarian Universalist Congregational Church and the Kendall Lakes Library (organized by County Commissioner Martinez).

Miami-Dade College, Commissioner Levine-Cava, Mayor Bell, Mayor Glinn and Councilwoman Burch of Miami Shores have all been assisting to schedule information sessions and ensure the success of the upcoming co-ops.

Miami Lakes seems like a wonderful fit for our co-ops, especially given the image attached of Mayor Cid standing atop of IKEA and saying, "Renewable and alternative sources of energy, such as solar, will continue to become a bigger part of our overall energy supply. I look forward to working with our community in diversifying our energy consumption sources."

Florida is ranked #3 in solar potential, yet our residential rooftop solar is still under 1%. Knowing this, I not only hope to work with your office to set up an information session, I invite each of you, if you aren't already getting your energy from heaven, to join our upcoming solar co-op with your community.

Thank you for your time. I look forward to hearing from and working with you all to make our county as resilient and independent as we possibly can be.

In solardarity,

Jody Finver  
Miami-Dade Co-Op Coordinator



## **Town of Miami Lakes Memorandum**

---

**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** PACE Providers  
**Date:** 9/5/2017

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**Background:**  
Verbal report.





## Town of Miami Lakes Memorandum

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**To:** Honorable Mayor and Councilmembers  
**From:** Alex Rey, Town Manager  
**Subject:** State Legislative Priorities for FY2018-2019  
**Date:** 9/5/2017

---

### **Recommendation:**

It is recommended that the Town Council approve the enclosed legislative priorities for FY2018-2019.

### **Background:**

The State Legislature annually considers several appropriations measures, which provide discretionary funding for numerous activities, as well as general government operations. Southern Strategy Group ("SSG") is contracted to provide the Town's state lobbying services. SSG lobbying services include being proactive in monitoring and lobbying on state budgeting and legislation which impacts the Town.

From the funding side, it is recommended that the Town makes the following request:

- West Lakes Drainage - \$500,000
- Royal Oaks Drainage - \$500,000
- Main Street East redevelopment and NW 59th Avenue connectivity - \$2,000,000

Additionally, the Mayor has indicated his desire to pursue two legislative policy amendments:

1. A provision allowing municipalities to optout of the FRS pension program. Currently, once you join the FRS, municipalities cannot opt-out.
2. A provision that allows municipalities, through an interlocal agreement, to pool their population numbers to be eligible to qualify as members of the Transportation Planning Organization (formerly MPO).

The Fiscal Year 2018-19 Legislative Priorities are summarized below.

**TOWN OF MIAMI LAKES LEGISLATIVE PRIORITIES SUMMARY**  
**TOTAL LEGISLATIVE REQUESTS \$3 MILLION**

<b>REQUEST</b>	<b>TOWN OF MIAMI LAKES PROJECTS</b>
<b>\$500,000</b>	<b>West Lakes Drainage Improvements Phase III Project</b> This project includes drainage system installation of drainage pipes in residential roads and exfiltration trenches (French Drains), connecting to the stormwater main line on NW 89th Avenue leading to an outfall. The underground infrastructure previously funded in part by the Florida Legislature is the main system which West Lakes Drainage Improvements Phase III new structures and inlets will intersect, completing this drainage system. The total project cost is estimated at \$1,000,000 with \$500,000 from the State and \$500,000 from local funds.
<b>\$500,000</b>	<b>Royal Oaks Drainage Improvements Project</b> This project includes construction of the drainage system which includes installation of stormwater pipes, exfiltration trenches (French Drains) and catch basins, creating a new outfall and restoration and resurfacing of the existing roadway surfaces. The project boundaries between 162 <sup>nd</sup> to 169 <sup>th</sup> Street and 79 <sup>th</sup> to 82 <sup>nd</sup> Avenue.
<b>\$2,000,000</b>	<b>NW 59th Avenue Extension and Redevelopment Project</b> <b>(Main Street East redevelopment and NW 59th Avenue connectivity)</b> The project includes the purchase of a 5.86-acre parcel from the Miami-Dade Aviation Department to design and construct a bridge and roadway improvement, extending NW 59th Avenue over the C-8 Canal south to NW 154th Street (Miami Lakes Drive), thereby providing improved public access that will facilitate increased economic opportunities, commerce, and local jobs. The project will also include a storage yard and a boat storage facility for the nautical public to be operated by the private sector through a revenue sharing agreement with the Town. This project will benefit the Town, neighboring jurisdictions, and Miami-Dade County by improving public infrastructure which brings economic recovery and enhancement to vacant spaces, increases access to businesses and commerce, and expands economic development opportunities in this region.
<b>POLICY</b>	<b>FRS Opt-Out Clause</b> A provision allowing municipalities to optout of the FRS pension program.Currently, once you join the FRS, municipalities cannot opt-out.
<b>POLICY</b>	<b>Support to Amend Florida Statute 339.176</b> Miami-Dade Transportation Planning Organization (TPO) Governing Board Voting Membership Population Threshold for Municipalities under 50,000.



## **Town of Miami Lakes Memorandum**

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**To: Honorable Mayor and Councilmembers**  
**From: Raul Gastesi, Town Attorney**  
**Subject: Attorney Report on Pending Litigation**  
**Date: 9/5/2017**

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### **Recommendation:**

There are currently several matters being litigated by the Town of Miami Lakes. Some of these matters are being referred to our insurance carrier to mitigate the Town's legal expense. This report will highlight the active files, and a report of expenses incurred to date.

### **MICHAEL PIZZI JR. v. TOWN OF MIAMI LAKES** **(Criminal Matter)**

This matter is currently being litigated, and substantial legal expenditure is likely. During the month of July invoices totaling \$17, 077.00 were approved and paid to Lydecker Diaz and Associates Law Firm.

### **TOWN OF MIAMI LAKES v. PGIT** **(insurance matter)**

The Town has received settlement proceeds in the amount of \$500,000.00, of which \$200,000.00 are owed to the Trujillo Vargas Law Firm.

### **GENERAL LITIGATION**

The following are current miscellaneous matters. There are several routine foreclosures currently being handled, however there are no significant expenditure to report. There are three general matters that are current, and remain from the previous month which include: that some of which include:

### **JUAN VALIENTE v. TOWN OF MIAMI LAKES:**

Currently in litigation. Matter is being handled by the Town's insurance carrier. Additional costs in the coming months are likely.

### **SANCHEZ RADIOLOGY v. TOWN OF MIAMI LAKES:**

Matter remains pending, there has been no activity. The issue in the lawsuit is expected to be moot, as they now have a certificate of occupancy.

### **LEMKE v. TOWN OF MIAMI LAKES:**

Matter is undergoing settlement negotiations. There may be some expenditure as matter is wound up