



**CITY COMMISSION AGENDA**  
**REVISED 4/17/2014\***  
**CITY HALL COMMISSION CHAMBERS**  
**300 W. Plant Street**

**REGULAR MEETING**

**APRIL 24, 2014**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum  
Invocation and Pledge of Allegiance

**1. APPROVAL OF MINUTES**

Regular Meeting of April 10, 2014

**2. \*OATHS OF OFFICE AND INTRODUCTION OF NEW OFFICERS** – Police Chief Brennan

**3. REGULAR BUSINESS**

- A. Recommendation to approve bids and award contract for 9<sup>th</sup> Street Gravity Sewer Improvements Project to Morris & Associates to include a ten percent contingency, which brings the total contract amount to \$658,885.15 – Assistant City Manager – Public Services Cochran
- B. Recommendation to approve bids and award contract for Fullers Cross Road 16-inch Potable Water Main Extension project to include a ten percent contingency, which brings the total contract amount to \$474,928.30 – Assistant City Manager – Public Services Cochran
- C. Recommendation to approve Change Order for Ortega Industrial Contractors in the amount of \$19,870.00 for extending and connecting the Trunk Line C reuse line to the Wastewater Treatment Plant – Assistant City Manager – Public Services Cochran
- D. Recommendation to approve the new Facility Sublicense Agreement between the City of Winter Garden and the District Board of Trustees of Valencia College to allow Winter Garden to use the facility at the Mid Florida Tech campus – Fire Chief McGrew
- E. Recommendation to approve an Interlocal Agreement between the City of Winter Garden and the Central Florida Fire Consortium – Fire Chief McGrew

**4. MATTERS FROM PUBLIC** (*Limited to 3 minutes per speaker*)

**5. MATTERS FROM CITY ATTORNEY** – Kurt Ardaman

**6. MATTERS FROM CITY MANAGER** – Mike Bollhoefer

**7. MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a Regular Meeting on May 8, 2014 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

**NOTICE:** In accordance with Florida Statutes 286.0105, if any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City of Winter Garden does not prepare or provide such record.

	Those needing assistance to participate in any of these proceedings should contact the City Clerk's Office at least 48 hours in advance of the meeting (407) 656-4111 x2254.		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Department (407) 656-4111 x5455.
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# CITY OF WINTER GARDEN

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## CITY COMMISSION AND COMMUNITY REDEVELOPMENT AGENCY REGULAR MEETING MINUTES

April 10, 2014

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

**Present:** Mayor John Rees, Commissioners Bob Buchanan, Kent Makin, Robert Olszewski and Colin Sharman

**Also Present:** City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant City Manager - Public Services Don Cochran, Assistant City Manager - Administrative Services Frank Gilbert, Community Development Director Ed Williams, Fire Chief Matt McGrew, Police Chief George Brennan, Building Official Mark Jones, Economic Development Director Tanja Gerhartz, and West Orange Times Reporter Peter M. Gordon

1. **APPROVAL OF MINUTES**

**Motion by Commissioner Buchanan to approve regular meeting minutes of March 27, 2014 as submitted. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

• **New Fire Chief**

City Manager Bollhoefer, Mayor Rees, and the City Commissioners installed the new Fire Chief Matt McGrew by presenting him with his safety helmet, chief's badge, and heartfelt congratulations.

2. **PRESENTATION**

Mayor Rees read **Proclamation 14-05** declaring the Month of April as Water Conservation Month in the City of Winter Garden.

3. **REGULAR BUSINESS**

A. **Recommendation to approve Change Order #4 increasing the contract amount for E. Plant St. Segment 2 by \$600,722.77 to cover cost of improvements to Segment 4**

Assistant City Manager - Public Services Cochran stated that change order #4 is for East Plant Street Segment 2. He noted that there is currently construction in progress on Segment 2 and they are ahead of schedule. Staff thought that since they have done such a good job on Segment 2, that it would be a good idea for them to continue the project and finish it. Change order #4 is being presented for approval and will include the installation of Segment 4 of Plant Street into the Segment 2 contract/project. He noted that there are two parts to the change order. The first is the addition of Segment 4 improvements, which costs \$901,339.67 and the second part is a deduction of \$316,000.90 for a total change order of \$600,722.77. He noted that the deduction was due to more money being

included to remove contaminated soil. There was not as much contaminated soil as originally anticipated. So there was approximately \$600,000.00 still left in the contract on contaminated soil. Staff recommends approval of the change order.

**Motion by Commissioner Makin to approve change order #4 increasing the contract amount for E. Plant St. Segment 2 by \$600,722.77 to cover cost of improvements to Segment 4. Seconded by Commissioner Buchanan. Motion carried unanimously 5-0.**

**B. Recommendation to approve the Final Plat for Bradford Creek Phase I**

Community Development Director Williams stated that staff has reviewed the plat for compliance with all of the City codes as well as the conditions that were placed on the project. Staff finds that it meets all of those requirements and recommends approval.

**Motion by Commissioner Buchanan to approve the final plat for Bradford Creek Phase I. Seconded by Commissioner Sharman and carried unanimously 5-0.**

**C. Recommendation to approve Developer's Agreement with AutoZone Stores, Inc. for property located at 13822 W. Colonial Drive**

Community Development Director Williams stated that this developer's agreement is to incorporate all of the conditions, restrictions, and requirements that the City has placed on the property during their variance and site plan review. He noted that it provides for some monitoring conditions were any damages made to the median could be tracked. They are taking the approach of trying to direct all of their drivers to come from the east as to avoid the median. Staff recommends approval.

**Motion by Commissioner Olszewski to approve the developer's agreement, as submitted, with AutoZone Stores, Inc. for property located at 13822 W. Colonial Drive. Seconded by Commissioner Makin and carried unanimously 5-0.**

*Dispensed as the City Commission and convened as the Community Redevelopment Agency at 6:45 p.m.*

**Members Present:** Chairman John Rees, Members Robert Olszewski, Bob Buchanan, Kent Makin, Colin Sharman and CRAAB Chairman, Larry Cappleman

**D. Recommendation to approve revised language in the Facade Matching Grant Program**

Economic Development Director Gerhartz stated that the CRA Facade Grant Program has been very successful in helping to improve and revitalize our historic downtown. It has improved the appearance and aesthetics of store fronts and buildings throughout the downtown area. Staff is recommending a revision to the program that will allow a Facade Grant be provided to new construction under special circumstances. New construction would only qualify for the grant if it is involved in the demolition of an

existing blighted building. The dollar amount of the grant would be determined on a case-by-case basis. The factors to be used will include the economic impact of the project, the magnitude of the blight, and the dollar amount of the private investment. Staff is recommending approval of the revised language for the Facade Grant Program.

Member Cappleman stated that the CRA Advisory Board discussed these changes to the eligibility of the Facade grant and think they are well advised and unanimously recommended approval.

Member Olszewski asked what is the maximum amount a facade grant can be awarded. Ms. Gerhartz responded that it is up to \$20,000 based on the amount spent, which is a minimum of \$1 million. Member Olszewski asked the City Manager how many buildings does Plant Street Market LLC own at this location. Mr. Bollhoefer replied there are three existing buildings. Member Olszewski asked for clarification on whether this is being changed to an unlimited amount being awarded. Mr. Bollhoefer replied that this is unlimited but would first go through the CRA Advisory board and then the City Commission would have to approve any grant. Member Cappleman indicated that the CRA Advisory Board would still be operating under its current guidelines for maximum limits unless there is an extenuating circumstance. The CRA Advisory Board did not understand there would be a significant change in the dollar amount. Member Olszewski explained that they were not if it is \$20,000.00 per building, but it sounds like we are trying to have an unlimited amount. City Manager Bollhoefer responded yes and no; that is the way it is written, but that was not the intent. It can easily be changed if this CRA so desires. There was discussion to add the additional language for clarification.

City Attorney Ardaman suggested that the language addition read “under these circumstances, the dollar amount of the grant shall be decided on a case-by-case basis, up to \$20,000.00 per existing building.”

**Motion by Member Cappleman to approve the revised language in the Facade Matching Grant Program with the suggested change as discussed. Seconded by Member Sharman and carried unanimously 6-0.**

E. **Recommendation to approve Facade Matching Grant application for 426 W. Plant Street as requested by Plant Street Market LLC in the amount of \$60,000.00, with conditions**

Economic Development Director Gerhartz stated that this item is for 426 W. Plant Street and at the last meeting the City Commission approved an investment package for the revitalization of this site. She stated that tonight the facade grant proposal is before the City Commission [CRA]. The applicant is Plant Street Market, LLC and proposes to demolish the existing buildings. They will build a new commercial building, which will house an artisan market and micro-brewery. The building would actually be moved closer to Plant Street with open seating area; hopefully creating pedestrian activity. This will greatly enhance this particular block of Plant Street and remove a blighted property.

The CRA Advisory Board recommends approval of a grant up to \$60,000.00. She noted that the item does add some conditions based upon the presentation made to the CRA Advisory Board. The front of the building would be used for retail such as a market and a brewery in the back. There would be a brick facade on the front elevation facing Plant Street and also on the east elevation along Central. A third condition requires closing on the property by the end of May for this facade grant to proceed.

Member Cappleman noted that the advisory board supports these conditions as well as well as the modifications.

**Motion by Member Sharman to approve Facade Matching Grant application for 426 W. Plant Street as requested by Plant Street Market LLC in the amount of \$60,000.00 with conditions as stated. Seconded by Member Makin. Motion carried unanimously 6-0.**

*The Community Redevelopment Agency adjourned and reconvened as the City Commission at 6:56 p.m.*

4. **MATTERS FROM PUBLIC**

Eva Coleman, 1060 Lincoln Terrace, Winter Garden, Florida, requested that speed bumps be installed on Lincoln Terrace. Mayor Rees and City Manager Bollhoefer noted that they would have the Police Chief look into this and someone would follow up with her.

Theo Graham, 213 W. Tilden Street, Winter Garden, Florida, requested a sidewalk be installed from Palmetto to State Road 50 and Vineland Road. He expressed that a lot of people are walking on that road at night. City Manager Bollhoefer noted that the bidding process for that project has already started.

5. **MATTERS FROM CITY ATTORNEY**

City Attorney Ardaman noted he has distributed a packet titled "Subsection added to I.C of the Land Swap Agreement" that the City Commission approved at the last meeting between 252 W. Plant Street LLC and West Street Partners and the City, which was not a final agreement. The 252 W. Plant Street LLC and West Street Partners has asked that the City include a restriction on the property that the City will end up owning between the splash pad and the property that 252 W. Plant Street LLC and West Plant Street Partners own. They are asking that there not be vertical construction that would interfere with what they intend to do with their property.

Mr. Ardaman noted that he has proposed a paragraph subsection 6 that says the City and the property owners will enter into this provision that will allow negotiation of restrictions on that property. He has also added a proposed Notice of Restriction that will encumber the City's property and limit the buildings that can be placed on that property for a 30 year period. He read the language that could be included in the agreement. If not included, they could have difficulty with their project.

City Manager Bollhoefer shared the reason they are proposing this agreement is because of the design of their building. This is the side of the building where they would like to have open area seating to face the park land. He noted that before they invest in doing that type of seating, they would like to have some type of guarantee that there will not be a building built next to it that would block their open-air seating.

There was discussion on the restriction, use, and limitation of the property. Mr. Ardaman stated this may not be the final language but it is the essence of what they would do if approved. There would not be a prohibition from putting other items on the lot, but would prohibit a building for 30 years. Mr. Ardaman suggested approving the added subsection and allowing staff to fine-tune the Notice of Restriction document.

Mr. Ardaman also mentioned that their request includes waiving permitting fees for the project due to their prior payment of permitting fees for their first project. In addition, they are requesting the City obtain a geo-technical report on the City's property. These items will keep them in the same position as they are now. City Manager Bollhoefer noted that staff has indicated the boring report will not exceed \$5,000. Mr. Ardaman advised that the Notice of Restriction form will come back to the City Commission.

**Motion by Commissioner Buchanan to approve the addition of subsection I.C.6 to the land swap agreement, waiver of the review and permitting fees for future development, and obtain a geo-technical report on the City's property. Seconded by Commissioner Sharman and carried unanimously 5-0.**

6. **MATTERS FROM CITY MANAGER**

**Introduction of Building Official**

City Manager Bollhoefer introduced the new Building Official Mark Jones.

**Financial Statement**

City Manager Bollhoefer noted that the City's financial statement has been distributed to the City Commission via their mailboxes, in both the short and longer version, for their review.

7. **MATTERS FROM MAYOR AND COMMISSIONERS**

**Commissioner Makin** stated the City had a great event this weekend, great weather, and great staff that did a good job.

Commissioner Makin asked for a status update on the Florida Department of Transportation's (FDOT) plan for the obstructive curb in the turn lane on State Road 50 near the Subway business. Mr. Bollhoefer replied that it was his understanding that this issue was addressed. Staff will get back with FDOT to get the safety devices installed.

**Commissioner Buchanan** stated that he thinks the event this weekend was the best event we have had in a long time. He noted that there were happy merchants. He stated that the Rotary Club set up tents as they have in the past. He gave a special thanks to Parks and Recreation Director Conn who he thinks provided food for his staff.

Commissioner Buchanan alerted everyone to a parcel pick up notice he received in the mail that was previously noted on Channel 9 News that if you call the number on the notice, your phone is automatically charged \$20.00 to \$40.00. If you stay on the phone, expensive additional fees are charged to you by the minute.

**Commissioner Olszewski** reiterated congratulations to the City staff and the Bloom 'N Grow Society for an outstanding Spring Fever in the Garden event. He also congratulated the Rotary and City staff for the Evening at the Pops.

Commissioner Olszewski also congratulated former City Commissioner Charlie Mae Wilder for receiving a proclamation from the Orange County Commission meeting for National Volunteer Week.

Commissioner Olszewski asked the City Manager for an update regarding the Community Development Block Grant in East Winter Garden on the beautification and clean-up. Mr. Bollhoefer stated that all the people have submitted their applications for the block grants and they have them all to organize and are not getting ready to go through the selection process for awarding. He noted that there was \$20,000.00 set aside in the budget to demolish dilapidated homes. He noted that the attorneys are going through the legal process. Commissioner Olszewski asked if he had a guess of when that would get started. Mr. Bollhoefer deferred to the attorneys. Mr. Ardaman responded that they have already started but the actual demolition is going to take a little more time and he does not know if he can give an estimate of time it will take.

**Commissioner Sharman** stated that he thinks we will need that parking garage pretty soon.

**Mayor Rees** thanked all the City staff for all the hard work that they do at events. He noted hats off to Parks and Recreation Director Jay Conn for all he does and his efforts.

The meeting adjourned at 7:19 p.m.

APPROVED:

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Mayor John Rees

ATTEST:

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City Clerk Kathy Golden, CMC

DRAFT

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Assistant City Manager – Public Services

**Via:** Mike Bollhoefer, City Manager

**Date:** April 16, 2014                      **Meeting Date:** April 24, 2014

**Subject:** Approve the Bids and Award a Contract for the 9<sup>th</sup> Street Gravity Sewer Improvements Project

**Issue:** On February 25, 2014, the City of Winter Garden received the following four bids for the 9<sup>th</sup> Street Gravity Sewer Improvements Project:

Morris & Associates	\$598,986.50
CE James, Inc.	\$835,520.00
Pospiech Contracting	\$858,990.00
DeWitt Excavating	\$1,050,896.62

According to the engineer of record's recommendation, Morris & Associates is the apparent low bidder with a total bid of \$598,986.50. The engineer checked 30 references, all of whom said Morris & Associates completed their projects successfully and to their satisfaction.

**Recommended Action:**

Approve the bids and award a contract for the 9<sup>th</sup> Street Gravity Sewer Improvements Project to Morris & Associates, including a 10% contingency, which brings the total contract amount to \$658,885.15.

**Attachments/References:**

- Engineer's letter of recommendation and bid tabulation



March 18, 2014

Mr. Donald Cochran  
Assistant City Manager – Public Services  
City of Winter Garden  
300 West Plant Street  
Winter Garden, FL 34787

**Subject: 9<sup>th</sup> Street Gravity Sewer Improvements  
Recommendation of Award**

**Tt #: 200-08490-12005**

Dear Mr. Cochran:

This letter provides our recommendation for award of the Contract for Construction of the City of Winter Garden 9<sup>th</sup> Street Gravity Sewer Improvements Project. On February 25, 2014, four (4) Contractors submitted bids for this project. Tetra Tech has completed our evaluation of these bids.

Attached to this letter is the bid tabulation for the four (4) bidders for the project. The project total bid prices submitted for the four (4) bidders are as shown below:

Company	Morris & Associates	CE James, Inc.	Pospiech Contracting	DeWitt Excavating
BASE BID	\$ 598,986.50	\$ 835,520.00	\$ 858,990.00	\$ 1,050,896.62

Attached to this letter is the bid item checklist, which details the specific items required in bidding document requirements. The bid item checklist shows that all bidders, except for Dewitt Excavating, Inc., had minor omissions within the bids. These minor omissions do not warrant any bids to be disqualified.

Morris & Associates was the apparent low bidder with a total base bid of \$598,986.50. References provided by Morris & Associates include similar pipeline projects including approximately thirty (30) jack and bores for the City of Tavares in the last year. Based upon review and discussions with select references for representative pipe projects, Morris & Associates appear to have completed all the projects successfully and to the satisfaction of each Owner. In view of these findings it appears that Morris & Associates is qualified to complete the referenced project.

Based on this evaluation, our recommendation is that the project be awarded to Morris & Associates in the amount of \$598,986.50.

If you have any questions or comments, please do not hesitate to call.

Very truly yours,

**Tetra Tech**

Brian A. Foulkes, P.E.  
Project Manager

MBS/slh/200-08490-12005/construction/bidsupport/Rec of Award  
C: Mike Kelly, P.E., City of Winter Garden  
Craig Sandt, City of Winter Garden

CITY OF WINTER GARDEN  
 9TH STREET GRAVITY SEWER IMPROVEMENTS

Apparent Low Bidder



Bid Opening: February 25, 2014

Bid Item	Bid Item Name & Category	Total Quantity (A)	Unit	Morris & Associates		CE James, Inc.		Pospiech Contracting		DeWitt Excavating, Inc.	
				Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)
1	Mobilization and Demobilization	1	LS	\$ 4,111.75	\$ 4,111.75	\$ 75,000.00	\$ 75,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
2	General Requirements	1	LS	\$ 30,775.00	\$ 30,775.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00	\$ 22,500.00	\$ 22,500.00
3	Indemnification	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
4	Maintenance of Traffic	1	LS	\$ 46,780.00	\$ 46,780.00	\$ 50,000.00	\$ 50,000.00	\$ 200,000.00	\$ 200,000.00	\$ 110,300.00	\$ 110,300.00
5	Locate Utilities in Advance of Construction	1	LS	\$ 17,475.00	\$ 17,475.00	\$ 7,500.00	\$ 7,500.00	\$ 2,000.00	\$ 2,000.00	\$ 7,500.00	\$ 7,500.00
6	Bypass Pumping	1	LS	\$ 54,900.00	\$ 54,900.00	\$ 30,000.00	\$ 30,000.00	\$ 10,000.00	\$ 10,000.00	\$ 100,000.00	\$ 100,000.00
7	Grout and Abandon Existing 8-inch SS	36	LF	\$ 53.50	\$ 1,926.00	\$ 25.00	\$ 900.00	\$ 20.00	\$ 720.00	\$ 106.00	\$ 3,816.00
8	Grout and Abandon Existing 24-inch SS	967	LF	\$ 16.50	\$ 15,955.50	\$ 35.00	\$ 33,845.00	\$ 25.00	\$ 24,175.00	\$ 56.00	\$ 54,152.00
9	Grout and Abandon Existing 30-inch SS	10	LF	\$ 120.00	\$ 1,200.00	\$ 75.00	\$ 750.00	\$ 50.00	\$ 500.00	\$ 113.50	\$ 1,135.00
10	Remove Existing 8-inch PVC	37	LF	\$ 94.50	\$ 3,496.50	\$ 25.00	\$ 925.00	\$ 15.00	\$ 555.00	\$ 100.00	\$ 3,700.00
11	Remove Existing 10-inch PVC	10	LF	\$ 349.50	\$ 3,495.00	\$ 35.00	\$ 350.00	\$ 20.00	\$ 200.00	\$ 100.00	\$ 1,000.00
12	Decommission and Remove Existing Manhole	1	EA	\$ 3,495.00	\$ 3,495.00	\$ 750.00	\$ 750.00	\$ 500.00	\$ 500.00	\$ 4,500.00	\$ 4,500.00
13	Core and Reform Bench Existing Manhole	3	EA	\$ 4,295.00	\$ 12,885.00	\$ 3,500.00	\$ 10,500.00	\$ 2,000.00	\$ 6,000.00	\$ 5,300.00	\$ 15,900.00
14	FRP Manhole (Owner Material Furnished)	4	EA	\$ 4,920.00	\$ 19,680.00	\$ 15,000.00	\$ 60,000.00	\$ 12,800.00	\$ 51,200.00	\$ 4,500.00	\$ 18,000.00
15	8-inch PVC SS Pipe	38	LF	\$ 166.50	\$ 6,327.00	\$ 50.00	\$ 1,900.00	\$ 50.00	\$ 1,900.00	\$ 145.99	\$ <b>5,547.62</b>
16	8-inch PVC SS Pipe (Owner Material Furnished)	20	LF	\$ 241.75	\$ 4,835.00	\$ 40.00	\$ 800.00	\$ 45.00	\$ 900.00	\$ 140.00	\$ 2,800.00
17	24-inch PVC SS Pipe	57	LF	\$ 351.75	\$ 20,049.75	\$ 400.00	\$ 22,800.00	\$ 420.00	\$ 23,940.00	\$ 218.00	\$ 12,426.00
18	24-inch PVC SS Pipe (Owner Material Furnished)	960	LF	\$ 228.75	\$ 219,600.00	\$ 350.00	\$ 336,000.00	\$ 360.00	\$ 345,600.00	\$ 140.00	\$ 134,400.00
19	Mill and Resurface Pavement	1,900	SY	\$ 43.25	\$ 82,175.00	\$ 25.00	\$ 47,500.00	\$ 12.00	\$ 22,800.00	\$ 53.00	\$ 100,700.00
20	Jack and Bore 42-inch Steel Casing with Carrier Pipe	60	LF	\$ 713.75	\$ 42,825.00	\$ 1,750.00	\$ 105,000.00	\$ 1,200.00	\$ 72,000.00	\$ 2,040.00	\$ 122,400.00
21	All Other Work Not Included in Items 1 through 20	1	LS	\$ 6,000.00	\$ 6,000.00	\$ 15,000.00	\$ 15,000.00	\$ 10,000.00	\$ 10,000.00	\$ 279,120.00	\$ 279,120.00
<b>BASE BID</b>				<b>\$ 598,986.50</b>		<b>\$ 835,520.00</b>		<b>\$ 858,990.00</b>		<b>\$ 1,050,896.62</b>	

DeWitt Excavating, Inc. - Math Error (Contractor Submitted Bid \$1,050,896.54 / Corrected Bid \$1,050,896.62)

Pospiech Contracting - Math Error (Contractor Submitted Bid \$854,990.00 / Corrected Bid \$858,990.00)

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Assistant City Manager – Public Services

**Via:** Mike Bollhoefer, City Manager

**Date:** April 16, 2014                      **Meeting Date:** April 24, 2014

**Subject:** Approve Bids and Award Contract for the Fullers Cross Road 16-Inch Potable Water Main Extension Project

**Issue:** On March 20, 2014, the City of Winter Garden received the following four bids for the Fullers Cross Road 16-Inch Potable Water Main Extension Project:

Bore Hawg, Inc.	\$431,753.00
T.B. Landmark Construction, Inc.	\$506,333.00
Schuller Contractors, Inc.	\$659,000.00
Jimmy Hickman Excavating, LLC	\$707,778.47

According to the engineer of record's recommendation, Bore Hawg, Inc., is the apparent low bidder with a total bid of \$431,753.00. The engineer contacted 3 references and all had positive comments about the contractor's work, stating that the work was completed to their satisfaction.

**Recommended Action:**

Approve the bids and award a contract for the Fullers Cross Road 16-Inch Potable Water Main Extension Project to Bore Hawg, Inc., including a 10% contingency, which brings the total project amount to \$474,928.30.

**Attachments/References:**

- Engineer's letter of recommendation and bid tabulation



April 1, 2014

Mr. Donald Cochran  
Assistant City Manager – Public Services  
City of Winter Garden  
300 West Plant Street  
Winter Garden, FL 34787

**Subject: Fullers Cross Road Potable Water Main  
Recommendation of Award**

**Tt #: 200-08490-13002**

Dear Mr. Cochran:

This letter provides our recommendation for award of the Contract for Construction of the City of Winter Garden's Fullers Cross Road Potable Water Main Project. On March 20, 2014, four (4) Contractors submitted bids for this project. Tetra Tech has completed our evaluation of these bids.

Attached to this letter is the bid tabulation for the four (4) bidders for the project. The project total bid prices submitted for the bidders and the engineer's estimate are shown below:

Bid Item Name & Category	Bore Hawg, Inc.	T.B. Landmark Construction, Inc.	Schuller Contractors, Inc.	Jimmy Hickman Excavating, LLC	Engineer's Estimate
<b>TOTAL BID</b>	\$431,753.00	\$506,333.00	\$659,000.00	\$707,778.47	\$422,400.00

Also attached to this letter is the bid item checklist, which details the specific items required in the bidding documents. The bid item checklist shows that only the Financial Statement Demonstrating the Bidder's Ability to Successfully Complete Work was omitted from a couple bid submittals. This omission included a letter stating that the company financials would be provided if they were the apparent low bidder. This omission does not warrant any bids to be disqualified. Tetra Tech requested and reviewed the Financial Statement for the apparent low bidder.

Bore Hawg, Inc. was the apparent low bidder with a total base bid of \$431,753.00. We were able to contact references for the three (3) the projects provided. Each of the references had a positive working experience with Bore Hawg and would use them again. In addition, we have had a positive experience on a project that was completed by Bore Hawg. The project included three (3) 20-inch HDPE directional drills for a cumulative directional drill length of 1,300 LF. A summary of each of the reference projects is provided below:

- Project 1:** Mosaic Fertilizer,  
Lithia Waterline Replacement Phase I  
Description of work: Worked as the sub for the HDD portion of construction for 11,345 LF of 24" HDPE pipe.  
Contract amount: \$667,904.30
- Project 2:** Volusia County,  
Rhode Island Avenue  
Description of work: Worked as the sub for the HDD portion of construction for 2380 LF of 18" and 725 LF of 8" HDPE pipe.  
Contract amount: \$133,500.00
- Project 3:** City of North Port  
North Port Relcaimed FM Extension  
Description of work: Worked as the sub for the HDD portion of construction for 15,524 LF of 18" and 1,890 LF of 20" pipe.  
Contract amount: \$914,755.59

In summary, Tetra Tech has reviewed the bids and has determined that the apparent lowest bidder was determined to meet the qualifications of this project and provided references who recommended them accordingly. Based on this evaluation, our recommendation is that the Fullers Cross Road Potable Water Main Project be awarded to Bore Hawg in the amount of \$431,753.00.

Tetra Tech appreciates this opportunity to serve the City for this important project. Should you require further information or have any questions, please do not hesitate to contact us at your earliest convenience.

Very truly yours,

**Tetra Tech**



Brian A. Foulkes, P.E.  
Project Manager

MBS/bmk/200-08490-13002/construction/bidsupport/Fuller Cross Rec of Award  
C: Mike Kelley, P.E., City of Winter Garden  
Craig Sandt, City of Winter Garden

Apparent Low Bidder



Bid Opening: March 20, 2014

Bid Item	Bid Item Name & Category	Total Quantity (A)	Unit	Bore Hawg Inc		Jimmy Hickman Excavating, LLC		Schuller Contractors Incorporated		T.B. Landmark Construction, Inc.	
				Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)	Unit Cost (B)	Item Cost (AxB)
1	Mobilization/Demobilization	1	LS	\$ 20,471.00	\$ 20,471.00	\$ 2,828.10	\$ 2,828.10	\$ 57,740.00	\$ 57,740.00	\$ 20,000.00	\$ 20,000.00
2	General Requirements, Bonds and Insurance	1	LS	\$ 11,919.00	\$ 11,919.00	\$ 15,135.38	\$ 15,135.38	\$ 12,000.00	\$ 12,000.00	\$ 5,500.00	\$ 5,500.00
3	Indemnification	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
4	Maintenance of Traffic	1	LS	\$ 7,140.00	\$ 7,140.00	\$ 28,281.00	\$ 28,281.00	\$ 10,000.00	\$ 10,000.00	\$ 3,900.00	\$ 3,900.00
5	Locate Utilities in Advance of Construction	1	LS	\$ 6,737.00	\$ 6,737.00	\$ 10,746.78	\$ 10,746.78	\$ 6,000.00	\$ 6,000.00	\$ 12,000.00	\$ 12,000.00
6	Survey Layout and As-Builts	1	LS	\$ 3,634.00	\$ 3,634.00	\$ 8,484.30	\$ 8,484.30	\$ 6,000.00	\$ 6,000.00	\$ 6,500.00	\$ 6,500.00
7	Furnish and install 16-inch PVC/DIP water main	80	LF	\$ 61.80	\$ 4,944.00	\$ 364.38	\$ 29,150.40	\$ 480.00	\$ 38,400.00	\$ 200.00	\$ 16,000.00
8	Directional Drill 20-inch HPDE water main	2,500	LF	\$ 130.00	\$ 325,000.00	\$ 218.78	\$ 546,950.00	\$ 187.00	\$ 467,500.00	\$ 155.00	\$ 387,500.00
9	16-inch Gate Valve	5	EA	\$ 5,000.00	\$ 25,000.00	\$ 6,577.50	\$ 32,887.50	\$ 7,440.00	\$ 37,200.00	\$ 4,800.00	\$ 24,000.00
10	Air Release Valve	4	EA	\$ 3,427.00	\$ 13,708.00	\$ 4,070.00	\$ 16,280.00	\$ 2,190.00	\$ 8,760.00	\$ 3,600.00	\$ 14,400.00
11	Blow-off Assembly	1	EA	\$ 1,200.00	\$ 1,200.00	\$ 1,751.39	\$ 1,751.39	\$ 2,400.00	\$ 2,400.00	\$ 3,000.00	\$ 3,000.00
12	Connection to Existing Main (Cut in and Connect)	1	EA	\$ 11,000.00	\$ 11,000.00	\$ 14,283.62	\$ 14,283.62	\$ 12,000.00	\$ 12,000.00	\$ 12,533.00	\$ 12,533.00
<b>BASE BID</b>				<b>\$ 431,753.00</b>		<b>\$ 707,778.47</b>		<b>\$ 659,000.00</b>		<b>\$ 506,333.00</b>	

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Assistant City Manager – Public Services

**Via:** Mike Bollhoefer, City Manager

**Date:** April 16, 2014                      **Meeting Date:** April 24, 2014

**Subject:** Approve a Change Order for Ortega Industrial Contractors for Connection of the Reuse Water Main to the Wastewater Treatment Plant.

**Issue:** When the first phase of the Trunk Line C reuse line was constructed, the section connecting the pipeline to the City’s Wastewater Treatment Plant was not completed. Staff recommends doing this work under a change order with Ortega Industrial Contractors. The work consists of extending a 12-inch reuse water line approximately 360 feet to the plant and making the connection.

Ortega Industrial Contractors are already on-site constructing the EQ basin, and they have provided us with a price of \$19,870.00 to complete the pipeline. Staff believes this is a very good price for the work and recommends having Ortega complete this section of the pipeline.

**Recommended Action:**

Approve a change order for Ortega Industrial Contractors in the amount of \$19,870.00 for extending and connecting the Trunk Line C reuse line to the Wastewater Treatment Plant.

**Attachments/References:**

- Change order

**SECTION 00681**

**CONTRACT CHANGE ORDER**

Change Order No. 4

Engineer Project No W7906.1

Project Title: CREST AVENUE WWTF - FEB AND PUMPING IMPROVEMENTS

Contractor: Ortega Industrial Contractors, Inc.

Reason for Change: Installation of 360 feet of 12" reclaim water main to link the Wastewater Treatment Plant's effluent reclaim water main to the existing "Trunkline C" reclaim water main stub installed several years ago located at the S/W corner of the property. This will provide a future service to the western communities. This work can be performed by Ortega Industrial Contractors who are currently working at the plant.

**Breakdown of Proposed Changes and Basis for Payment**  
*(Includes pertinent drawings, specifications, and documentation where necessary.)*

Item No. and Description	Change in Contract Cost +/-
1. Installation of +/- 360 feet of 12" PVC reclaim water main along with tapping of a 20" existing reclaim water main. Restoration of sod and two driveways are included with the removal of +/-20 feet of existing reclaim water main. MOT included. City to supply material.	\$19,870.00

- |  |                |
|--|----------------|
| (1) Total Proposed Change in Contract Cost +/-                   | \$19,870.00    |
| (2) Original Contract Price                                      | \$2,056,124.00 |
| (3) Total All Previous Change Orders (Change Order No. 1 thru 3) | \$143,783.15   |
| (4) New Contract Price (Total of Item 1 through Item 3)          | \$2,219,777.15 |
| (5) Original Contract Time                                       | 270 Days       |
| (6) Additional Days Approved (Change Order No. 1 through No. 3)  | 41 Days        |
| (7) Current Contract Time  | 311 Days       |
| (8) Additional Days Proposed                                     | 14 Days        |
| (9) New Contract Time (Total of Items 7 and 8)                   | 325 Days       |
| (10) New Construction Completion Date 9-15-14                    | 325 Days       |
| Recommended by Engineer: _____                                   | Date: _____    |
| Accepted by Contractor: _____                                    | Date: _____    |
| Accepted by Owner: _____   | Date: _____    |

**END OF SECTION**

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Matt McGrew, Fire Chief



**Via:** City Manager Mike Bollhoefer

**Date:** April 8, 2014

**Meeting Date:** April 24, 2014

**Subject:** Facility Sublicense Agreement between the City of Winter Garden and the District Board of Trustees of Valencia College.

**Issue:** Subsequent to the License Agreement that Valencia College has with the School Board (Reference item below); a Sublicense Agreement is now necessary with Valencia College to allow Winter Garden to utilize the fire training facility at Mid Florida Tech.

**Recommended action:**

Approve the new Facility Sublicense Agreement between the City of Winter Garden and the District Board of Trustees of Valencia College to allow Winter Garden to use the facility at the Mid Florida Tech campus.

**Attachments/References:**

- License Agreement between the School Board of Orange County and the District Board of Trustees of Valencia College.
- Two (2) original copies of the Facility Sublicense Agreement.

# REFERENCE

## LICENSE AGREEMENT

This **LICENSE AGREEMENT** ("Agreement"), is made effective as of this \_\_\_ day of \_\_\_\_\_, 2013 by and between the **SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a corporate body existing under the laws of the State of Florida, whose address is 445 West Amelia Street, Orlando, Florida 32801, hereinafter referred to as "**School Board**", and **THE DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA**, a political subdivision of the State of Florida, whose address is 190 South Orange Avenue, Orlando, Florida 32801, hereinafter referred to as "**Valencia**".

### WITNESSETH

**WHEREAS**, School Board is the owner of Mid-Florida Technical School, located at 2900 W. Oak Ridge Road, Orlando, Florida 32809, more particularly described on **Exhibit "A"**, attached hereto and incorporated herein by reference (the "**Mid-Florida Tech**"); and

**WHEREAS**, since 1977 School Board has permitted the Central Florida Fire Academy to use a portion of Mid-Florida Tech's campus to operate a fire academy training facility, such portion more particularly described in **Exhibit "B"**, attached to and incorporated herein (the "**Facility**"); and

**WHEREAS**, Valencia wishes to use the Facility to operate or cause the operation of the fire academy training facility formerly used and operated solely by the Central Florida Fire Academy in accordance with an Interlocal Agreement, as amended from time to time; and

**WHEREAS**, School Board desires to give permission to Valencia to enter onto the Mid Florida Tech campus to use the Facility to operate the fire academy training facility as formerly used and operated by the Central Florida Fire Academy; and

**WHEREAS**, Valencia agrees that School Board will bear no expense in relation to the operation of the fire academy training or Valencia's use of the Facility;

**NOW THEREFORE**, in consideration of the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, School Board and Valencia hereby agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference.

2. **Grant of License.**

(a) Subject to the terms and conditions set forth herein, School Board grants to Valencia, its employees and agents a temporary, revocable license (the "**License**") to use the Facility, and parking spaces located on the Mid Florida Tech property outside of the Facility in numbers and locations as mutually determined by the parties, solely to operate a fire academy training facility throughout the Term. This License creates a permissive use only and shall not operate to create or vest any real property rights in Valencia.

(b) Valencia may grant written, nonexclusive sublicenses to third parties to use the Facilities for fire training purposes and/or to operate a fire academy training facility in accordance with this Agreement. Any agreement granting a sublicense or rights an/or obligations shall contain terms and conditions no less restrictive than those set forth in this Agreement and shall state that the sublicense is subject to the termination of this Agreement. If and to the extent permitted by law, Valencia shall have the same responsibility for the activities of any sublicensee as if the activities were directly those of Valencia. Upon School Board's written request, Valencia shall provide to School Board copies of each sublicense agreement and any amendments thereto.

(c) Valencia's use of the Facility shall not unreasonably interfere with School Board's operation of Mid-Florida Tech. School Board's operation of Mid-Florida Tech shall not unreasonably interfere with Valencia's use of the Facility.

3. **Term.** Unless agreed to in writing by the parties hereto, the term of this Agreement shall be for ten (10) years after the Effective Date (the "Term"). Either Party may terminate the Agreement upon one hundred eighty (180) days written notice for any reason whatsoever, in which event, this Agreement shall terminate, and only those provisions herein indicated shall survive termination.

4. **License Fees.** During the Term of this License, Valencia shall pay to School Board the annual fee of One Dollar (\$1.00) per year, and other good and valuable consideration as set forth herein. Said fee shall be due and payable on February 1 of each year.

5. **Maintenance Responsibilities.**

(a) Except for parking spaces provided for Valencia's use as part of the license granted by this Agreement, Valencia or its sublicensee shall, at no cost to School Board, maintain the Facility as it deems appropriate during the Term of this Agreement, except that Valencia shall perform maintenance and repairs to Facilities necessary to eliminate disruption to School Board's operation of Mid Florida Tech or to remediate a hazardous substance spill, release, or discharge on, in, under or from the Facility attributable solely to Valencia's use of the Facility ("Hazardous Material Remediation") in a manner reasonably acceptable to School Board.

(b) If Valencia fails after twenty (20) business days' written notice to proceed with due diligence to perform, or cause to be performed, maintenance or to make repairs required for the specific purposes of Hazardous Material Remediation or eliminating disruption of School Board's operation of Mid Florida Tech, the same may be made by School Board at the expense of Valencia, and the reasonable expenses thereof incurred by School Board shall be paid to School Board as additional license fees within thirty (30) days after rendition of a bill or statement therefor. Valencia hereby grants to School Board the right to enter the Facilities at reasonable times to perform such repairs upon not less than two (2) business days (except in cases of emergency) advance notice to Valencia. Except in cases of emergency, School Board agrees to make reasonable efforts to minimize any interference with Valencia's operations caused by such entry and to coordinate such entry in advance with Valencia's academic and training schedule.

6. **Utilities.** Valencia's use of water and sewer, electricity, gas and all other applicable utilities shall be metered and billed by the utilities directly to Valencia or its sublicensee. In the event any of these utility charges, as directly attributable to Valencia's use of the Facilities, are billed to School Board, Valencia shall be obligated to reimburse the School Board for these charges as billed to the School Board. All such reimbursement payments shall be paid no later than thirty (30) days after the School Board provides Valencia written notice of all amounts due and copies of supporting invoices from the utility provider.

7. **Indemnification and Insurance.** School Board hereby acknowledges that Valencia is a political subdivision of the State of Florida. Without waiving its sovereign immunity, and if and to the extent permitted by law, the College shall be liable for all bodily injury and property damage attributable solely to its negligent acts or omissions, or those of its employees acting within the scope of their employment. The foregoing shall not constitute an agreement by the College to assume any liability for the acts, omissions and/or negligence of any third party. The College participates in the Florida Community College Risk Management Consortium, with headquarters in Gainesville, Florida, for worker's compensation, general liability, errors and omissions, administrative defense, automobile, and property, and other coverage, to the limits of sovereign immunity pursuant to Florida law, with said protection being applicable to officers, trustees, employees, servants, and agents while acting within the scope of their employment/duties with College. OCPS shall be named as a loss payee on these policies, as applicable. The College's self-insured fund and various policies are authorized and stated in Florida Statutes, Section 1001.64(27) and Section 768.28. College agrees to maintain its participation in the Florida Community College Risk Management Consortium for the duration of this Agreement. Upon request, the College shall provide an affidavit or Certificate of Insurance evidencing such insurance. Nothing contained in this Agreement shall be construed or interpreted as: (i) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (ii) the consent of the College or OCPS to be sued; or (iii) a waiver of sovereign immunity of the College and OCPS beyond the waiver provided in law.

8. **Compliance with Laws, Regulations, and Policies.** School Board and Valencia shall, to the extent applicable to each party's respective obligations hereunder, throughout the Term, promptly comply, or cause compliance, with all laws and ordinances and the orders, rules, regulations and requirements (individually and collectively, the "Legal Requirements") of all federal, state, county and municipal governments and appropriate departments, commissions, boards subdivisions, and officers thereof (individually and collectively, the "Governmental Authorities"), and with requirements of the State Fire Marshall which may be applicable to the Facility, or the use or manner of use thereof.

9. **Hazardous Materials.**

(a) Valencia agrees to refrain, and to prevent its employees, contractors and sublicensees from bringing any Hazardous Materials onto the Facility in violation of any Legal Requirement. Valencia hereby covenants and agrees, subject to the provisions of Florida Statutes §768.28 and without waiving any sovereign immunity, to indemnify, defend and hold School Board harmless, if and only to the extent permitted by law, from and against any and all claims, actions, administrative proceedings, judgments, damages, penalties, costs, expenses, losses and liabilities of any kind or nature that arise (indirectly or directly) from or in connection with the

presence, release, spill or discharge of any Hazardous Materials in, on or about the Facility at any time resulting from the acts or omissions of Valencia, its employees, agents or contractors. Without limiting the generality of the foregoing, the indemnity set forth above, if and only to the extent permitted by law, shall specifically cover any investigation, monitoring and remediation costs. The provisions of this paragraph shall survive the termination or expiration of the Agreement.

(b) In the event, during the term of this Agreement, there is a spill, release, or other discharge of any hazardous substance on, in, under, or from the Facility, then, in addition to the provisions of any of the Legal Requirements requiring notice of such spill, release or other discharge, Valencia shall immediately notify School Board of such spill, release, or other discharge. Such notification shall be made by telephone and in writing, and, as soon as possible after such spill, release, or other discharge, Valencia shall also provide a written follow-up notice providing School Board with complete information concerning such spill, release or other discharge.

(c) For the purposes of this License, "hazardous substances or materials" shall mean (i) hazardous substances, as that term is defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et. seq.*; (ii) hazardous waste, as that term is defined by the Resource Conservation Recovery Act, 42 U.S.C. Section 6901, *et. seq.*; (iii) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any Environmental Law, (iv) petroleum or petroleum substances; (v) asbestos in any form or condition; (vi) polychlorinated biphenyl (PCBs) or substances or compounds containing PCBs; and (vii) hazardous substances as that term may be defined by the Florida Statutes, the rules of the Florida Department of Environmental Protection, the rules of the United States Environmental Protection Agency and the rules of the St. Johns River Water Management District.

(d) Valencia will immediately notify School Board, and provide copies upon receipt, of all written complaints, claims, citations, demands, inquiries, reports, or notices alleging a spill, release, or discharge of any hazardous substance on, in, under, or from the Facility by Valencia or any sublicensee, employee, or independent contractor of Valencia during the term of this License, or any extension thereof. Valencia shall promptly resolve any of those actions and proceedings to the satisfaction of School Board.

(e) During the term of this License, or any extension thereof, School Board, at its expense, shall have the right at all reasonable times and from time-to-time to conduct environmental audits or assessments of the Facility, and Valencia shall cooperate in the conduct of those audits. Within one hundred eighty (180) days of the Effective Date of this Agreement, Valencia shall cause to be conducted a Phase I environmental audit on the Facilities at Valencia's cost and expense which shall be furnished by Valencia to School Board within thirty (30) business days of receipt. If this audit detects any hazardous substance on, in, or under the Facility, Valencia shall have the right to terminate this Agreement at its convenience, or in the alternative, School Board may remediate promptly such condition at its sole cost and expense. In addition, within one hundred eighty (180) days after the termination of this Agreement, Valencia shall cause a Phase I environmental audit to be conducted on the Facility at Valencia's sole cost and expense, which Valencia shall deliver to School Board within thirty (30) days of receipt. If any hazardous substance is detected on, in, or under the Facility, which was

discharged by Valencia or any sublicensee, employee, or independent contractor of Valencia, then Valencia shall be obligated to remediate promptly such condition at its sole cost and expense.

**10. Notices.** All notices required under this Agreement shall be in writing and shall be given by hand delivery, acknowledged electronic transmission or United States mail, first class postage prepaid, addressed as follows (or to any such other address or office as either party may designate in writing).

School Board: The School Board of Orange County, Florida  
445 West Amelia Street  
Orlando, Florida 32801  
Attention: Dr. Barbara Jenkins, Superintendent  
Telephone: (407) 317-3700

Copy to: Orange County Public Schools  
445 West Amelia Street  
Orlando, Florida 32801  
Attention: Diego "Woody" Rodriguez, General Counsel  
Telephone: (407) 317-3411

Valencia: Valencia Community College  
190 South Orange Avenue  
Orlando, Florida 32801  
Attention: Dr. Sanford C. "Sandy" Shugart, President  
Telephone: (407) 582-3400

Copy to: Valencia Community College  
190 South Orange Avenue  
Orlando, Florida 32801  
Attention: William J. Mallowney, Esq., Vice President of Policy  
and General Counsel  
Telephone: (407) 582-3411

**11. Default.**

a. Each one or more of the following events ("Events of Default") shall be deemed a default and a breach of this Agreement:

ii. A party's failure to materially observe, perform or comply with any of the terms, covenants or conditions in this Agreement;

iii. a determination that a party is without legal authority to enter into or continue to comply with this Agreement;

iv. failure by Valencia to maintain required insurance;

v. the abandonment of the Facility by Valencia; abandonment being defined as a cessation of Valencia's operation of a fire academy training facility on the Facility which continues uninterrupted for a period of at least twelve (12) months; or,

(b) Upon the happening of any of the aforesaid Events of Default and thirty (30) days after a defaulting party's receipt of written notice, the non-defaulting party may serve upon the defaulting party a written notice of termination to end the Term and/or pursue any available remedy at law or in equity. Upon receipt of such notice, and upon the date set forth therein, but not less than five (5) days from the service thereof, this License, as well as any and all right, title, and interest of the Licensee hereunder, shall wholly cease and expire in the same manner and with the same force and effect as if the date of the expiration of this License, except for surviving provisions as set forth in this Agreement.

(c) A party will be in default under this Agreement if it fails to observe or perform any of the covenants or provisions of this Agreement to be observed or performed by that party, where such failure shall continue for a period of thirty (30) days after written notice is received by that party from the non-defaulting party; provided, however, that it shall not be deemed an event of default if the defaulting party shall commence to cure such failure within said thirty (30) day period and thereafter diligently pursue such cure to completion.

(d) To the extent permitted by Federal and State Law, neither party shall be liable, whether contractually or in tort, for any consequential, special or indirect damages arising out of or in connection with this Agreement.

## 12. Miscellaneous Provisions.

(a) No Other Parties. This Agreement is solely for the benefit of the parties executing this Agreement and no rights are intended, nor shall any rights accrue, to any third party. Valencia shall not have the right to assign this Agreement but may grant written, nonexclusive sublicenses to third parties to use the Facilities as described herein.

(b) Binding on Successors. This Agreement shall run with the land and be binding on the parties, their successors and assigns and upon all entities operating for or on behalf of the parties to this Agreement.

(c) Governing Law. This Agreement shall be construed, interpreted and controlled according to the laws of the State of Florida, with venue in Orange County, Florida.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and supersedes all previous discussions, understandings and agreements with respect to those matters.

(e) Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this Agreement.

(f) Time of the Essence. Time is of the essence of this Agreement and of each and every provision hereof.

(g) Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and, when taken together, shall constitute one and the same agreement.

(h) Enforcement and Attorney's Fees. Any litigation arising out of this Agreement shall take place in the Circuit Court for Orange County, Florida and the prevailing party will be entitled to recover its reasonable attorney's fees and costs at trial and any and all appeals from the non-prevailing party.

(j) Captions. The captions of this Agreement are for convenience only and are not to be construed as part of this Agreement and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES TO FOLLOW]**

IN WITNESS WHEREOF, School Board and Valencia have caused this Agreement to be executed on the respective dates set forth below.

**"SCHOOL BOARD"**  
**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate existing under the Constitution and laws of the State of Florida.

ATTEST:

By: [Signature]  
Dr. Barbara M. Jenkins, Superintendent

By: [Signature]  
Bill Sublette, Chairman

Approved as form and legality by the Office of the General Counsel for the exclusive use of The School Board of Orange County, Florida this 20 day of February 2013.

By: [Signature]  
Diego "Woody" Rodriguez, General Counsel

Reviewed and Approved by Orange County Public Schools, Chief Facilities Officer this 8 day of FEB, 2013.

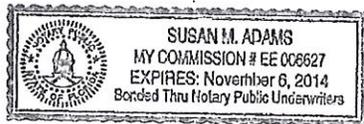
By: [Signature]  
John Morris, Chief Facilities Officer

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this 19<sup>th</sup> day of February, 2013 before me, personally appeared Bill Sublette, Chairman, and Dr. Barbara M. Jenkins, Superintendent, of The School Board of Orange County, Florida, a public corporate body organized and existing under the laws of the State of Florida, to me known to be the individuals and officers described in and who executed the foregoing conveyance and severally acknowledged the execution thereof to be their free act and deed as such officers thereunto duly authorized, and that the official seal of said body corporate is duly affixed thereto, and the said conveyance is the act and deed of said body corporate.

Witness my hand and official seal this 19<sup>th</sup> day of February, 2013.

(Notary Seal)



[Signature]  
Notary Signature  
Print: Susan M. Adams

"VALENCIA"

THE DISTRICT BOARD OF TRUSTEES  
OF VALENCIA COLLEGE, FLORIDA

By: [Signature]  
Printed Name: SOLANGE FERNANDEZ DEL PINO  
By: [Signature]  
Printed Name: LISA PENKE

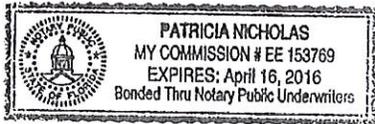
By: [Signature]  
Printed Name: Keith W. Hauck  
Title: Vice President, Operations & Finance  
Date: 5-10-13

Valencia College  
GENERAL COUNSEL  
MAY 9 2013

APPROVED BY  
MAY 9 2013  
GENERAL COUNSEL  
Valencia College

STATE OF FLORIDA  
COUNTY OF: ORANGE

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2013, by Keith Hauck, as Vice President of Valencia Community College, who produced \_\_\_\_\_ as identification or is personally known to me and who acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.



Patricia Nicholas  
Notary Public  
Printed Name: Patricia Nicholas  
My Commission Expires: 4/16/16

EXHIBIT "A"

MID-FLORIDA TECHNICAL SCHOOL FACILITIES

Mid-Florida Tech and Eric Olson Bus Compound

Lots 36 and 45 and the West 2/3 of Lots 35 and 46, The McKoy Land Company Subdivision of Section 21, Township 23 South, Range 29 East, according to the plat thereof as recorded in Plat Book F, Page 48, Public Records of Orange County, Florida;

AND

The Northwest ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

The West 2/3 of the Northeast ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

Block .A. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida as vacated by Resolution recorded in Book 3810, Page 3501;

AND

Block .B. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida.

Together With vacated road vacated by Certificate recorded September 19, 1958 in Book 428, Page 30, if any, lying within the Southwest ¼ of Section 21, Township, 23 South, Range 29 East, Orange County, Florida and east of John Young Parkway right-of-way;

And Together With vacated road vacated by Certificate recorded April 19, 1963 in Book 1189, Page 492 as is contained within the above-described property;

And Together With vacated road vacated by Certificate recorded July 7, 1967 in Book 1647, Page 571 and corrective Certificate recorded August 8, 1967 in Book 1655, Page 1002, if any, lying east of John Young Parkway right-of-way and west of the above-described property.

Less and Except rights-of-way on north and west in Deed Book 554, Page 410, Book 234, Page 448, Book 1256, Page 26, and Book 4262, Page 1155

All lying west of the right-of-way of Chancellor Drive as established in Right-of-Way Deed recorded in Book 2639, Page 495.

EXHIBIT "B"

PORTION OF MID-FLORIDA TECH FACILITIES OCCUPIED BY CENTRAL FLORIDA  
FIRE ACADEMY TO OPERATE A FIRE ACADEMY TRAINING FACILITY

The area identified as being located within the fenced in area at the property known as Mid-Florida Tech which area shall include the following facilities and their approximate square footage:

- TOWER – 3,295 SQUARE FEET
- APARATUS BAY - 4,500 SQUARE FEET
- BURN BUILDING – 3,186 SQUARE FEET
- FOUR (4) PORTABLES (2 CLASSROOM AND 2 EQUIPMENT) – 5,280 SQUARE FEET

In addition, there shall be sufficient sections of parking identified by mutual agreement of the parties to provide parking for the benefit and use of Valencia which shall not impact the School Board's use and operations of Mid-Florida Tech. To the extent feasible, sufficient signage shall be provided to identify the areas of parking designated for Valencia's use.

**FACILITY SUBLICENSE AGREEMENT**

This **FACILITY SUBLICENSE AGREEMENT** (“**Agreement**”), is made effective as of this \_\_\_ day of \_\_\_\_\_, 2013 by and between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as “**Agency**”, and **THE DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA**, a political subdivision of the State of Florida, whose address is 190 South Orange Avenue, Orlando, Florida 32801, (“**Valencia**”).

**WITNESSETH**

**WHEREAS**, Valencia has entered into a license agreement (the "**License Agreement**"), attached to and incorporated herein as **Exhibit "A,"** with the School Board of Orange County, Florida, to use a portion of the facilities at Mid-Florida Technical School, located at 2900 W. Oak Ridge Road, Orlando, Florida 32809, more particularly described in **Exhibit "B"**, attached to and incorporated herein (the "**Facility**") to operate or cause the operation of the Central Florida Fire Institute at Valencia, such Facility formerly used and operated solely by the Central Florida Fire Academy in accordance with a prior interlocal agreement; and

**WHEREAS**, Agency participates in the Central Florida Fire Consortium (the "**Consortium**"), which supports the operation of, and maintenance of the Facility used by, the Central Florida Fire Institute at Valencia (the "**Institute**") in accordance with an interlocal agreement (the "**Interlocal Agreement**"), using a portion of Mid-Florida Tech's campus to operate a fire training facility, such portion more particularly described in Exhibit "B" attached; and

**WHEREAS**, Valencia wishes to grant a nonexclusive sublicense to Agency and give permission to Agency to enter onto the Facility and use the Facility for fire training purposes subject to and in accordance with this Agreement, the License, and the Interlocal Agreement, all as amended from time to time.

**NOW THEREFORE**, in consideration of the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Agency and Valencia hereby agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference.

2. **Grant of Sublicense.**

(a) Subject to the terms and conditions of this Agreement, the License, and the Interlocal Agreement, all as amended from time to time, Valencia grants to Agency and its employees a temporary, nonexclusive and revocable sublicense to use the Facility, and parking spaces located on the Mid Florida Tech property outside of the Facility in numbers

and locations as determined by the Consortium, solely to use the Facility for fire training purposes on days and at times scheduled by the Consortium throughout the Term. This Agreement creates a permissive use only and shall not operate to create or vest any real property rights in Agency.

(b) Agency may not grant sublicenses to third parties to use the Facility for any purpose.

(c) Agency's use of the Facility shall not unreasonably interfere with the School Board of Orange County's operation of Mid-Florida Tech.

**3. Term.** Unless terminated earlier as provided by this Agreement or otherwise as agreed to in writing by the parties hereto, the term of this Agreement shall be for ten (10) years after the Effective Date (the "Term").

**4. Dues, Fees and In-Kind Contributions.** During the Term of this Agreement, Agency shall pay the fees, dues, and/or provide the in-kind contributions to the Consortium in accordance with the Interlocal Agreement.

**5. Maintenance Responsibilities.**

(a) Except for parking spaces provided for Agency's use as part of the sublicense granted pursuant to the License Agreement between Valencia and the School Board, Agency shall, as a member of the Consortium and at no cost to Valencia, support the obligations of the Consortium pursuant to the Interlocal Agreement to maintain, or cause to be maintained the Facility as the Consortium deems appropriate during the Term of this Agreement, including performance of operations, maintenance and repairs to the Facility necessary to eliminate disruption to the School Board of Orange County's operation of Mid-Florida Tech, except that Agency shall remediate a hazardous substance spill, release, or discharge on, in, under or from the Facility attributable solely to Agency's use of the Facility ("Hazardous Material Remediation") in a manner reasonably acceptable to Valencia.

(b) If Agency fails after twenty (20) business days' written notice to proceed with due diligence to perform, or cause to be performed, maintenance or to make repairs required for the specific purposes of Hazardous Material Remediation the same may be made by the Consortium at the expense of Agency and the reasonable expenses thereof incurred by the Consortium shall be paid to the Consortium as additional fees within thirty (30) days after rendition of a bill or statement therefor. Agency hereby grants to the Consortium and/or Valencia the right to enter the Facility at reasonable times to perform such repairs upon not less than two (2) business days (except in cases of emergency) advance notice to Agency. Except in cases of emergency, the Consortium and/or Valencia agree to make reasonable efforts to minimize any interference with Agency's operations caused by such entry and to coordinate such entry in advance with Agency's academic and training schedule.

(c) Agency is authorized to inspect the Facility prior to its use pursuant to this Agreement. Agency is aware, understands and agrees that the Facilities are sublicensed by Valencia to Agency in an "AS IS" condition without warranty or representation, express or implied, and the Agency hereby agreeing, acknowledging and affirming to Valencia that the

Agency has had full opportunity to inspect, and accepts the Facilities in an "AS IS" condition. Agency understands and acknowledges that Valencia hereby expressly disclaims any and all warranties, whether express or implied, with respect to the Facilities, including without limitation, any warranty of habitability, warranty of merchantability, or warranty of fitness for a particular use. It is the Agency's intention to give up, waive, and relinquish all rights to assert any claim, demand, or lawsuit of any kind with respect to the condition of the Facilities, including without limitation the improvements, the real property, or the personal property sublicensed or otherwise provided for Agency's use hereunder. Valencia will not be required to make any repairs or pay any expenses concerning the operation and maintenance of the Facilities.

(d) Should there arise during the term of this Agreement the need for other than ordinary usual repairs, which would result in costs in excess of the Consortium's budgeted expenses, and the Consortium is unable or unwilling to provide for such repairs to restore the Facilities to a safe and usable condition, then either party may cancel this Agreement without further obligation to make such repairs or otherwise reconstruct the Facility. In the event this Agreement is cancelled pursuant to this subsection, neither party shall be required to be responsible for payment of the expenses.

**6. Utilities.** Agency's use of water and sewer, electricity, gas and all other applicable utilities shall be metered and billed by the utilities directly to the Consortium. In the event any of these utility charges, as directly attributable to Agency's use of the Facility, are billed to Valencia, Agency shall be obligated to reimburse the Valencia for these charges as billed to the Valencia. All such reimbursement payments shall be paid no later than thirty (30) days after the Valencia provides Agency written notice of all amounts due and copies of supporting invoices from the utility provider.

**7. Indemnification and Insurance.** The Parties hereby acknowledge that Agency is a governmental entity in the State of Florida. Without waiving its sovereign immunity, and if and to the extent permitted by law, Agency shall be liable for all bodily injury and property damage attributable solely to its negligent acts or omissions, or those of its employees acting within the scope of their employment. Under no circumstances shall Agency be liable to or for the negligent acts of Valencia or any person employed by Valencia or under the direction of Valencia. Neither party shall have tort liability for any amounts in excess of those limits per claim and per occurrence set for tort liability in Section 768.29 of the Florida Statutes. The foregoing shall not constitute an agreement by the Agency to assume any liability for the acts, omissions and/or negligence of any third party. Valencia shall be named as additional insured or a loss payee on all policies of insurance that the Agency carries or is self-insured for with regard to worker's compensation, general liability, errors and omissions, administrative defense and automobiles. Upon request, Agency shall provide either a Certificate of Insurance evidencing such insurance or a Certificate of Self-insurance. Nothing contained in this Agreement shall be construed or interpreted as: (i) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (ii) the consent of a Party to be sued; or (iii) a waiver of sovereign immunity of a Party beyond the waiver provided in law.

**8. Compliance with Laws, Regulations, and Policies.** Valencia and Agency shall, to the extent applicable to each party's respective obligations hereunder, throughout the Term, promptly comply, or cause compliance, with all laws and ordinances and the orders, rules,

regulations and requirements (individually and collectively, the "Legal Requirements") of all federal, state, county and municipal governments and appropriate departments, commissions, boards subdivisions, and officers thereof (individually and collectively, the "Governmental Authorities"), and with requirements of the State Fire Marshal which may be applicable to the Facility, or the use or manner of use thereof.

**9. Hazardous Materials.**

(a) Agency agrees to refrain, and to prevent its employees and contractors from bringing any Hazardous Materials onto the Facility in violation of any Legal Requirement. Agency hereby covenants and agrees, subject to the provisions of Florida Statutes §768.28 and without waiving any sovereign immunity, to indemnify, defend and hold Valencia harmless, if and only to the extent permitted by law, from and against any and all claims, actions, administrative proceedings, judgments, damages, penalties, costs, expenses, losses and liabilities of any kind or nature that arise (indirectly or directly) from or in connection with the presence, release, spill or discharge of any Hazardous Materials in, on or about the Facility at any time resulting from the acts or omissions of Agency, its employees, agents or contractors. Without limiting the generality of the foregoing, the indemnity set forth above, if and only to the extent permitted by law, shall specifically cover any investigation, monitoring and remediation costs. The provisions of this paragraph shall survive the termination or expiration of the Agreement.

(b) In the event, during the term of this Agreement, there is a spill, release, or other discharge of any hazardous substance on, in, under, or from the Facility, then, in addition to the provisions of any of the Legal Requirements requiring notice of such spill, release or other discharge, Agency shall immediately notify the Consortium and Valencia of such spill, release, or other discharge. Such notification shall be made by telephone and in writing, and, as soon as possible after such spill, release, or other discharge, Agency shall also provide a written follow-up notice providing Valencia and the Consortium with complete information concerning such spill, release or other discharge.

(c) For the purposes of this License, "hazardous substances or materials" shall mean (i) hazardous substances, as that term is defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et. seq.*; (ii) hazardous waste, as that term is defined by the Resource Conservation Recovery Act, 42 U.S.C. Section 6901, *et. seq.*; (iii) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any Environmental Law, (iv) petroleum or petroleum substances; (v) asbestos in any form or condition; (vi) polychlorinated biphenyl (PCBs) or substances or compounds containing PCBs; and (vii) hazardous substances as that term may be defined by the Florida Statutes, the rules of the Florida Department of Environmental Protection, the rules of the United States Environmental Protection Agency and the rules of the St. Johns River Water Management District.

(d) Agency will immediately notify Valencia, and provide copies upon Agency's receipt, of all written complaints, claims, citations, demands, inquiries, reports, or notices alleging a spill, release, or discharge of any hazardous substance on, in, under, or from the Facility by Agency, employee, or independent contractor of the Agency during the term of this Agreement, or any extension thereof. To the extent specifically required by any of the other

provisions of this Agreement, Agency shall promptly resolve any of those actions and proceedings to the satisfaction of Valencia

**10. Notices.** All notices required under this Agreement shall be in writing and shall be given by hand delivery, acknowledged electronic transmission or United States mail, first class postage prepaid, addressed as follows (or to any such other address or office as either party may designate in writing).

Agency:

Copy to:

Valencia: Valencia College  
190 South Orange Avenue  
Orlando, Florida 32801  
Attention: Dr. Sanford C. "Sandy" Shugart, President  
Telephone: (407) 582-3400

Copy to: Valencia College  
190 South Orange Avenue  
Orlando, Florida 32801  
Attention: William J. MULLOWNEY, Esq., Vice President of Policy  
and General Counsel  
Telephone: (407) 582-3411

**11. Default/Termination.** This Agreement may be terminated by either party and be of no further force and effect, immediately upon the occurrence of any of the following events:

- (a). Failure of Agency to provide to the Consortium in a timely manner dues, fees, or required in-kind contributions as provided in the Interlocal Agreement, or
- (b). Upon no less than one hundred eighty (180) days written notice stating the party's intent not to participate in or otherwise to terminate the Agreement for any reason whatsoever, or
- (c). Immediately upon written notice of termination for the reasons provided in Section 5. (d) relating to other than ordinary and usual repairs for which the Consortium is unable or unwilling to provide, or
- (c). Failure of any party to observe, perform or comply with any of the material terms, covenants or conditions of this Agreement, or
- (d). Failure of the State of Florida to appropriate the funds necessary to operate the Facility or Institute, or
- (e). The Interlocal Agreement is terminated, Agency ceases to participate in the Interlocal Agreement, the Facility is rendered substantially inoperable by any

cause or for any reason, or Valencia's License Agreement with the School Board of Orange County is terminated.

To the extent permitted by Federal and State Law, neither party shall be liable, whether contractually or in tort, for any consequential, special or indirect damages arising out of or in connection with this Agreement.

**12. Miscellaneous Provisions.**

(a) No Other Parties. This Agreement is solely for the benefit of the parties executing this Agreement and no rights are intended, nor shall any rights accrue, to any third party. Valencia shall not have the right to assign this Agreement, but may grant written, nonexclusive sublicenses to third parties to use the Facility as described herein, but only upon written consent of the Consortium.

(b) Assignments and Sublicenses. Valencia will issue nonexclusive sublicenses to all agency members of the Consortium, containing the same substantive terms and conditions as set forth herein. Valencia will not further assign the License or grant any other sublicenses or right to use the Facility by any third party, unless consented to in writing by the Consortium. Each member of the Consortium may use the Facility at such times and in the manner directed by the Consortium.

(c) Binding on Successors. This Agreement shall run with the land and be binding on the parties, their successors and assigns and upon all entities operating for or on behalf of the parties to this Agreement.

(d) Governing Law. This Agreement shall be construed, interpreted and controlled according to the laws of the State of Florida, with venue in Orange County, Florida.

(e) Entire Agreement. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and supersedes all previous discussions, understandings and agreements with respect to those matters.

(f) Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this Agreement.

(g) Time of the Essence. Time is of the essence of this Agreement and of each and every provision hereof.

(h) Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and, when taken together, shall constitute one and the same agreement.

(i) Enforcement and Attorney's Fees. Any litigation arising out of this Agreement shall take place in the Circuit Court for Orange County, Florida and the prevailing party will be

entitled to recover its reasonable attorney's fees and costs at trial and any and all appeals from the non-prevailing party.

(j) Captions. The captions of this Agreement are for convenience only and are not to be construed as part of this Agreement and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES TO FOLLOW]**

IN WITNESS WHEREOF, Agency and Valencia have caused this Agreement to be executed on the respective dates set forth below.

**“Agency”**

\_\_\_\_\_,  
a body corporate existing under the  
Constitution and laws of the State of Florida.

**ATTEST:**

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

Approved as form and legality by the Office  
of the General Counsel for the exclusive use  
of Agency this \_\_\_\_ day of \_\_\_\_\_, 2013.

Reviewed and Approved by Agency, Title  
this \_\_\_\_ day of \_\_\_\_\_, 2013.

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2013 before me, personally  
appeared Name, Title, and Name, Title, of Agency, a public corporate body organized and  
existing under the laws of the State of Florida, to me known to be the individuals and officers  
described in and who executed the foregoing conveyance and severally acknowledged the  
execution thereof to be their free act and deed as such officers thereunto duly authorized, and  
that the official seal of said body corporate is duly affixed thereto, and the said conveyance is the  
act and deed of said body corporate.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2013.

(Notary Seal)

\_\_\_\_\_  
Notary Signature  
Print: \_\_\_\_\_

**“VALENCIA”**

**THE DISTRICT BOARD OF TRUSTEES  
OF VALENCIA COLLEGE, FLORIDA**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF: ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, as \_\_\_\_\_ of Valencia Community College, who produced \_\_\_\_\_ as identification or is personally known to me and who acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**

MID-FLORIDA TECHNICAL SCHOOL FACILITIES

Mid-Florida Tech and Eric Olson Bus Compound

Lots 36 and 45 and the West 2/3 of Lots 35 and 46, The McKoy Land Company Subdivision of Section 21, Township 23 South, Range 29 East, according to the plat thereof as recorded in Plat Book F, Page 48, Public Records of Orange County, Florida;

AND

The Northwest ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

The West 2/3 of the Northeast ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

Block .A. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida as vacated by Resolution recorded in Book 3810, Page 3501;

AND

Block .B. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida.

Together With vacated road vacated by Certificate recorded September 19, 1958 in Book 428, Page 30, if any, lying within the Southwest ¼ of Section 21, Township, 23 South, Range 29 East, Orange County, Florida and east of John Young Parkway right-of-way;

And Together With vacated road vacated by Certificate recorded April 19, 1963 in Book 1189, Page 492 as is contained within the above-described property;

And Together With vacated road vacated by Certificate recorded July 7, 1967 in Book 1647, Page 571 and corrective Certificate recorded August 8, 1967 in Book 1655, Page 1002, if any, lying east of John Young Parkway right-of-way and west of the above-described property.

Less and Except rights-of-way on north and west in Deed Book 554, Page 410, Book 234, Page 448, Book 1256, Page 26, and Book 4262, Page 1155

All lying west of the right-of-way of Chancellor Drive as established in Right-of-Way Deed recorded in Book 2639, Page 495.

## EXHIBIT "B"

### PORTION OF MID-FLORIDA TECH FACILITIES OCCUPIED BY CENTRAL FLORIDA FIRE CONSORTIUM TO OPERATE A FIRE CONSORTIUM TRAINING FACILITY

The area identified as being located within the fenced in area at the property known as Mid-Florida Tech which area shall include the following facilities and their approximate square footage:

- TOWER – 3,295 SQUARE FEET
- APPARATUS BAY - 4,500 SQUARE FEET
- BURN BUILDING – 3,186 SQUARE FEET
- FOUR (4) PORTABLES (2 CLASSROOM AND 2 EQUIPMENT) – 5,280 SQUARE FEET

In addition, there shall be sufficient sections of parking identified by mutual agreement of the parties to provide parking for the benefit and use of Valencia and the Consortium which shall not impact the School Board's use and operations of Mid-Florida Tech. To the extent feasible, sufficient signage shall be provided to identify the areas of parking designated for Valencia's/Consortium's use.

**FACILITY SUBLICENSE AGREEMENT**

This **FACILITY SUBLICENSE AGREEMENT** (“**Agreement**”), is made effective as of this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as “**Agency**”, and **THE DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA**, a political subdivision of the State of Florida, whose address is 190 South Orange Avenue, Orlando, Florida 32801, (“**Valencia**”).

**WITNESSETH**

**WHEREAS**, Valencia has entered into a license agreement (the "**License Agreement**"), attached to and incorporated herein as **Exhibit "A,"** with the School Board of Orange County, Florida, to use a portion of the facilities at Mid-Florida Technical School, located at 2900 W. Oak Ridge Road, Orlando, Florida 32809, more particularly described in **Exhibit "B"**, attached to and incorporated herein (the "**Facility**") to operate or cause the operation of the Central Florida Fire Institute at Valencia, such Facility formerly used and operated solely by the Central Florida Fire Academy in accordance with a prior interlocal agreement; and

**WHEREAS**, Agency participates in the Central Florida Fire Consortium (the "**Consortium**"), which supports the operation of, and maintenance of the Facility used by, the Central Florida Fire Institute at Valencia (the "**Institute**") in accordance with an interlocal agreement (the "**Interlocal Agreement**"), using a portion of Mid-Florida Tech's campus to operate a fire training facility, such portion more particularly described in Exhibit "B" attached; and

**WHEREAS**, Valencia wishes to grant a nonexclusive sublicense to Agency and give permission to Agency to enter onto the Facility and use the Facility for fire training purposes subject to and in accordance with this Agreement, the License, and the Interlocal Agreement, all as amended from time to time.

**NOW THEREFORE**, in consideration of the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Agency and Valencia hereby agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein by reference.

2. **Grant of Sublicense.**

(a) Subject to the terms and conditions of this Agreement, the License, and the Interlocal Agreement, all as amended from time to time, Valencia grants to Agency and its employees a temporary, nonexclusive and revocable sublicense to use the Facility, and parking spaces located on the Mid Florida Tech property outside of the Facility in numbers

and locations as determined by the Consortium, solely to use the Facility for fire training purposes on days and at times scheduled by the Consortium throughout the Term. This Agreement creates a permissive use only and shall not operate to create or vest any real property rights in Agency.

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regulations and requirements (individually and collectively, the "Legal Requirements") of all federal, state, county and municipal governments and appropriate departments, commissions, boards subdivisions, and officers thereof (individually and collectively, the "Governmental Authorities"), and with requirements of the State Fire Marshal which may be applicable to the Facility, or the use or manner of use thereof.

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Attention: Dr. Sanford C. "Sandy" Shugart, President  
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190 South Orange Avenue  
Orlando, Florida 32801  
Attention: William J. Mallowney, Esq., Vice President of Policy  
and General Counsel  
Telephone: (407) 582-3411

**11. Default/Termination.** This Agreement may be terminated by either party and be of no further force and effect, immediately upon the occurrence of any of the following events:

- (a). Failure of Agency to provide to the Consortium in a timely manner dues, fees, or required in-kind contributions as provided in the Interlocal Agreement, or
- (b). Upon no less than one hundred eighty (180) days written notice stating the party's intent not to participate in or otherwise to terminate the Agreement for any reason whatsoever, or
- (c). Immediately upon written notice of termination for the reasons provided in Section 5. (d) relating to other than ordinary and usual repairs for which the Consortium is unable or unwilling to provide, or
- (c). Failure of any party to observe, perform or comply with any of the material terms, covenants or conditions of this Agreement, or
- (d). Failure of the State of Florida to appropriate the funds necessary to operate the Facility or Institute, or
- (e). The Interlocal Agreement is terminated, Agency ceases to participate in the Interlocal Agreement, the Facility is rendered substantially inoperable by any

cause or for any reason, or Valencia's License Agreement with the School Board of Orange County is terminated.

To the extent permitted by Federal and State Law, neither party shall be liable, whether contractually or in tort, for any consequential, special or indirect damages arising out of or in connection with this Agreement.

**12. Miscellaneous Provisions.**

(a) No Other Parties. This Agreement is solely for the benefit of the parties executing this Agreement and no rights are intended, nor shall any rights accrue, to any third party. Valencia shall not have the right to assign this Agreement, but may grant written, nonexclusive sublicenses to third parties to use the Facility as described herein, but only upon written consent of the Consortium.

(b) Assignments and Sublicenses. Valencia will issue nonexclusive sublicenses to all agency members of the Consortium, containing the same substantive terms and conditions as set forth herein. Valencia will not further assign the License or grant any other sublicenses or right to use the Facility by any third party, unless consented to in writing by the Consortium. Each member of the Consortium may use the Facility at such times and in the manner directed by the Consortium.

(c) Binding on Successors. This Agreement shall run with the land and be binding on the parties, their successors and assigns and upon all entities operating for or on behalf of the parties to this Agreement.

(d) Governing Law. This Agreement shall be construed, interpreted and controlled according to the laws of the State of Florida, with venue in Orange County, Florida.

(e) Entire Agreement. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof and supersedes all previous discussions, understandings and agreements with respect to those matters.

(f) Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be considered an independent provision and the finding shall have no effect on the validity of the balance of this Agreement.

(g) Time of the Essence. Time is of the essence of this Agreement and of each and every provision hereof.

(h) Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and, when taken together, shall constitute one and the same agreement.

(i) Enforcement and Attorney's Fees. Any litigation arising out of this Agreement shall take place in the Circuit Court for Orange County, Florida and the prevailing party will be

entitled to recover its reasonable attorney's fees and costs at trial and any and all appeals from the non-prevailing party.

(j) Captions. The captions of this Agreement are for convenience only and are not to be construed as part of this Agreement and shall not be construed as defining or limiting in any way the scope or intent of the provisions hereof.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES TO FOLLOW]**

**IN WITNESS WHEREOF**, Agency and Valencia have caused this Agreement to be executed on the respective dates set forth below.

**“Agency”**

\_\_\_\_\_,  
a body corporate existing under the  
Constitution and laws of the State of Florida.

**ATTEST:**

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

Approved as form and legality by the Office  
of the General Counsel for the exclusive use  
of Agency this \_\_\_\_ day of \_\_\_\_\_, 2013.

Reviewed and Approved by Agency, Title  
this \_\_\_\_ day of \_\_\_\_\_, 2013.

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2013 before me, personally  
appeared Name, Title, and Name, Title, of Agency, a public corporate body organized and  
existing under the laws of the State of Florida, to me known to be the individuals and officers  
described in and who executed the foregoing conveyance and severally acknowledged the  
execution thereof to be their free act and deed as such officers thereunto duly authorized, and  
that the official seal of said body corporate is duly affixed thereto, and the said conveyance is the  
act and deed of said body corporate.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2013.

(Notary Seal)

\_\_\_\_\_  
Notary Signature  
Print: \_\_\_\_\_

**“VALENCIA”**

THE DISTRICT BOARD OF TRUSTEES  
OF VALENCIA COLLEGE, FLORIDA

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF: ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, as \_\_\_\_\_ of Valencia Community College, who produced \_\_\_\_\_ as identification or is personally known to me and who acknowledged that he/she signed the instrument voluntarily for the purpose expressed in it.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**

MID-FLORIDA TECHNICAL SCHOOL FACILITIES

Mid-Florida Tech and Eric Olson Bus Compound

Lots 36 and 45 and the West 2/3 of Lots 35 and 46, The McKoy Land Company Subdivision of Section 21, Township 23 South, Range 29 East, according to the plat thereof as recorded in Plat Book F, Page 48, Public Records of Orange County, Florida;

AND

The Northwest ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

The West 2/3 of the Northeast ¼ of the Southwest ¼ of the Southeast ¼ of Section 21, Township 23 South, Range 29 East, Orange County, Florida;

AND

Block .A. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida as vacated by Resolution recorded in Book 3810, Page 3501;

AND

Block .B. Orlando Central Park Number Fifty-Seven, according to the plat thereof as recorded in Plat Book 16, Pages 64, Public Records of Orange County, Florida.

Together With vacated road vacated by Certificate recorded September 19, 1958 in Book 428, Page 30, if any, lying within the Southwest ¼ of Section 21, Township, 23 South, Range 29 East, Orange County, Florida and east of John Young Parkway right-of-way;

And Together With vacated road vacated by Certificate recorded April 19, 1963 in Book 1189, Page 492 as is contained within the above-described property;

And Together With vacated road vacated by Certificate recorded July 7, 1967 in Book 1647, Page 571 and corrective Certificate recorded August 8, 1967 in Book 1655, Page 1002, if any, lying east of John Young Parkway right-of-way and west of the above-described property.

Less and Except rights-of-way on north and west in Deed Book 554, Page 410, Book 234, Page 448, Book 1256, Page 26, and Book 4262, Page 1155

All lying west of the right-of-way of Chancellor Drive as established in Right-of-Way Deed recorded in Book 2639, Page 495.

**EXHIBIT "B"**

**PORTION OF MID-FLORIDA TECH FACILITIES OCCUPIED BY CENTRAL FLORIDA  
FIRE CONSORTIUM TO OPERATE A FIRE CONSORTIUM TRAINING FACILITY**

The area identified as being located within the fenced in area at the property known as Mid-Florida Tech which area shall include the following facilities and their approximate square footage:

- TOWER – 3,295 SQUARE FEET
- APPARATUS BAY - 4,500 SQUARE FEET
- BURN BUILDING – 3,186 SQUARE FEET
- FOUR (4) PORTABLES (2 CLASSROOM AND 2 EQUIPMENT) – 5,280 SQUARE FEET

In addition, there shall be sufficient sections of parking identified by mutual agreement of the parties to provide parking for the benefit and use of Valencia and the Consortium which shall not impact the School Board's use and operations of Mid-Florida Tech. To the extent feasible, sufficient signage shall be provided to identify the areas of parking designated for Valencia's/Consortium's use.

**THE CITY OF WINTER GARDEN**  
**CITY COMMISSION AGENDA ITEM**

**From:** Matt McGrew, Fire Chief 

**Via:** City Manager Mike Bollhoefer

**Date:** April 8, 2014

**Meeting Date:** April 24, 2014

**Subject:** Interlocal Agreement between the City of Winter Garden and the Central Florida Fire Consortium.

**Issue:** This Interlocal Agreement replaces the 2005 Interlocal Agreement. The new agreement reflects the name change of the Central Florida Fire Academy to Central Florida Fire Consortium and updates the list of participants.

**Recommended action:**

Approve the Interlocal Agreement between the City of Winter Garden and the Central Florida Fire Consortium.

**Attachments/References:**

Attached are two (2) original copies of the Interlocal Agreement.

**INTERLOCAL AGREEMENT  
CENTRAL FLORIDA FIRE CONSORTIUM**

Approved by Central Florida Fire Consortium Board on \_\_\_\_\_, 2014

**RECITALS**

**WHEREAS**, this is an Interlocal Agreement between the following political subdivisions and municipalities of the State of Florida (collectively, the "Central Florida Fire Consortium" or "Consortium" and individually, "Parties" or "Member Entities"):

- a. City of Orlando
- b. City of Winter Garden
- c. City of Ocoee
- d. City of Maitland
- e. City of Kissimmee
- f. City of St. Cloud
- g. City of Winter Park
- h. Orange County Board of County Commissioners
- i. Reedy Creek Improvement District
- j. Osceola County Board of County Commissioners; and

**WHEREAS**, by Interlocal Agreement dated June 6, 1977, the City of Orlando and the former Orange County Board of Fire Commissioners agreed to jointly sponsor and participate in an "Orlando-Orange Fire Training Academy"; and

**WHEREAS**, the City of Orlando provided for the creation and establishment of the "Orlando-Orange Fire Training Academy Board of Trustees" by adoption of an amendment to Chapter 2 of the Code of the City of Orlando; and

**WHEREAS**, by Interlocal Agreement dated June 3, 1982, (and subsequently updated and agreed upon on March 15, 1994, and again on January 18, 2006) the City of Orlando and Orange County and other then existing member agencies agreed to continue the joint efforts begun as a result of the aforementioned Interlocal Agreement of June 6, 1977; and

**WHEREAS**, by subsequent amendments to Chapter 2 of the Code of the City of Orlando, the Academy was renamed and redesignated as the "Central Florida Fire Academy

at Orlando", then the "Central Florida Emergency Services Institute," and then re-named "Central Florida Fire Academy;" and

**WHEREAS**, the Central Florida Fire Academy no longer operates a state certified education and training program in fire and emergency services; and

**WHEREAS**, the District Board of Trustees of Valencia College, Florida ("Valencia College" or "Valencia") has established the Central Florida Fire Institute at Valencia (the "Institute") to operate a state certified education and training programs in fire and emergency services in its service district of Orange and Osceola Counties, Florida; and

**WHEREAS**, Valencia has entered into a License Agreement (the "License Agreement"), attached to and incorporated herein as Exhibit "A," with the School Board of Orange County, Florida, to use a portion of the facilities at Mid-Florida Technical School, located at 2900 W. Oak Ridge Road, Orlando, Florida 32809, more particularly described in Exhibit "A" to the License Agreement, attached to and incorporated herein (the "Facility") to operate the Institute, such Facility formerly used and operated solely by the Central Florida Fire Academy in accordance with prior interlocal agreements; and

**WHEREAS**, the Central Florida Fire Academy desires to change its name to the Central Florida Fire Consortium and to alter its purpose from locally operating a state certified education and training program in fire and emergency services to that of managing, operating and maintaining the Facility in support of the Institute and training needs of Member Entities and other selected public agencies; and

**WHEREAS**, Valencia desires to engage the Consortium to manage, operate and maintain the Facility in support of the Institute and training needs of Member Entities and other public agencies, such engagement to be documented and governed by a mutually acceptable management agreement ; and

**WHEREAS**, Chapter 163, Florida Statutes provides that a joint exercise of power by public agencies may be made by Agreement in the form of an Interlocal Agreement; and

**WHEREAS**, each of the Parties to this Interlocal Agreement is a "public agency" within the meaning of § 163.01 Florida Statutes; and

**WHEREAS**, the Parties to this Interlocal Agreement desire to collaborate in the operation of the Consortium and further desire to better set forth the working relationship between themselves with respect to the Consortium's operation.

**NOW, THEREFORE, IN CONSIDERATION** of the foregoing and other good and valuable consideration, to include the mutual terms, conditions, promises, and covenants hereinafter contained, the Parties agree as follows:

1. **Recitals:** The recitals set forth above are true and correct, and incorporated as part of this Interlocal Agreement.

2. **Purpose and Intent:** It is the purpose and intent of this Interlocal Agreement to provide for the continuing operation, maintenance, and management of the Facility in support of the Institute and training needs of Member Entities and other public agencies, and to set forth the duties and responsibilities of the participating Parties. It is also the intent of this Agreement to operate the Consortium as a separate entity created by Interlocal Agreement.

3. **Powers Designated:** The Board of Directors of Central Florida Fire Consortium (hereinafter the "Board" or the "Board of Directors") shall possess the power to make and enter into contracts in the name of the Consortium, to employ agencies or employees, to acquire, construct, manage, maintain, or operate buildings, parks, or improvements; to acquire, hold, or dispose of property; and to incur debts, liabilities, or obligations which do not constitute the separate debt, liability, or obligation of any Party to this Interlocal Agreement. All such powers shall be exercised in accordance with the provisions of this Interlocal Agreement, as well as the provisions of Chapters 163 and 119, Florida Statutes.

4. **Board of Directors:**

a. **Governance:** The Consortium shall be governed by its Board of Directors, in accordance with Chapter 163, Florida Statutes, and in accordance with this Interlocal Agreement.

b. **Board Members:** The Fire Chief of each Member Entity to this Interlocal Agreement shall make up the Board of Directors of the Consortium. Each member of the Board of Directors shall be entitled to vote on all issues before the Board as provided herein.

c. **Alternates:** Each member of the Board of Directors may designate, in writing, an alternate to serve as an acting Board Member in the event that he or she is unable to attend a meeting of the Board of Directors. Any such alternate member

of the Board of Directors shall be entitled to vote on any issues before the Board, provided the original Board Member is entitled to vote but is not present.

d. **Board Members not Compensated:** Members of the Board of Directors of the Consortium shall not be compensated for their services as Board Members. However, the Board may from time to time agree in advance to pay the out-of-pocket expenses of any Board member asked to do extraordinary services on behalf of the Board.

5. **Officers:** The Board of Directors shall hold an annual election of officers. Only Board members may serve as officers of the Consortium. The officers shall be President/Chairman, Vice President/Vice Chairman, Secretary, and Treasurer. Duties, responsibilities and authority of Officers shall be defined by the By-Laws, as defined herein.

6. **Meetings:** The Board of Directors shall meet at least quarterly, unless otherwise determined by the Board of Directors, at a time and place to be determined by the Board. In addition, Special Meetings of the Board of Directors may be called from time to time, and the procedures for such meetings shall be set forth in the By-Laws. All meetings and business of the Board of Directors shall be conducted in compliance with Florida's Public Records and open meeting laws.

7. **Voting Weights:** In consideration of the differences in size and scope of the Member Entities, voting weights shall be assigned as follows:

- a. City of Orlando (three (3) votes)
- b. City of Winter Garden (one (1) vote)
- c. City of Ocoee (one (1) vote)
- d. City of Maitland (one (1) vote)
- e. City of Kissimmee (one (1) vote)
- f. City of St. Cloud (one (1) vote)
- g. City of Winter Park (one (1) vote)
- h. Orange County Board of County Commissioners (four (4) votes)
- i. Reedy Creek Improvement District (one (1) vote)
- j. Osceola County Board of County Commissioners (two (2) votes)

8. **Action by Board of Directors:** All actions of the Board of Directors must be approved by a simple majority of those Board members present at the meeting, except that the following matters shall require a two-thirds (2/3) majority of those present for approval:

- a. Approval of annual budget
- b. Hiring or firing of Facilities Manager
- c. Admission of any additional parties to Interlocal Agreement/Board of Directors
- d. Adoption of By-Laws
- e. Amendments to By-Laws
- f. Amendment of Interlocal Agreement
- g. Annual Schedule of Dues and Fees to be charged by the Consortium
- h. Notwithstanding anything contained herein to the contrary, the initiation of litigation or other legal action or proceeding on behalf of the Consortium shall require unanimous (100%) approval of the Board of Directors. Provided however, if a Member Entity's interest is adverse to the Consortium in the proposed litigation or other legal proceeding, the adverse Member Entity will not be entitled to vote on the issue.

9. **Participating Parties:** The parties to this Interlocal Agreement shall be the participants (sometimes referred to herein as "Members" or "Member Entities") in the Consortium. However, the Board of Directors, may, from time to time, allow additional public agencies to participate as Members on such terms and conditions as it may set. In the event that the admission of additional public agencies as Parties to this Interlocal Agreement be approved by a favorable two-thirds (2/3) vote as described in the preceding paragraph, such newly admitted Members must execute and agree to join in this Interlocal Agreement.

10. **Use of Facility and Provision of Services to Non-Member Public Agencies:**

- a. In accordance with the requirements of the License Agreement, all Member Entities shall be required to execute a facility sublicense agreement with Valencia College prior to using the Facility. This facility sublicense agreement is attached as Exhibit "B", and incorporated herein (the "Sublicense Agreement"). Each Member Entity agrees to execute the Sublicense Agreement as a condition of membership in the Consortium.
- b. The Consortium may, with the approval of its Board of Directors,

authorize the use of the Facilities by public agencies that are not named Member Entities in this Interlocal Agreement. However, the Board of Directors shall set an appropriate fee schedule for such non-member participation, and the non-member participant shall be required to execute the Sublicense Agreement with Valencia College prior to using the Facility.

11. **School Board:** The School Board of Orange County has licensed the use of the Facility to Valencia College, and will continue to do so on such terms and conditions as set forth in the License Agreement. The Facility shall remain the property of the School Board of Orange County, and may not be sold, mortgaged, or otherwise encumbered by the Consortium. The Consortium shall enter into a Facility Operations and Management Agreement with Valencia College.

12. **Facility Manager:** The Board of Directors may hire a Facility Manager, who shall be responsible for implementing the Facility Operations and Management Agreement as entered into by and between the Consortium and Valencia College. The Board shall enter into a written employment contract with the Facility Manager, more specifically setting forth the duties, responsibilities and authority of the Facility Manager.

13. **Chief Financial Officer:** The Board of Directors may also hire a Chief Financial Officer, who will be responsible for ensuring that all budgeting, accounts payable, accounts receivable, and other financial matters are conducted following generally accepted governmental accounting practices. The Board may enter into a written employment contract with the Chief Financial Officer, more specifically setting forth the duties, responsibilities, and powers of the Chief Financial Officer.

14. **Committees:** The Board of Directors, in carrying out its duties and responsibilities, may establish committees. The President shall appoint the Members to serve on each such committee.

15. **Budgeting:** The Board of Directors shall annually budget for the operations of the Consortium. Each party to this Interlocal Agreement shall cooperate in providing funding to the Consortium, in accordance with the terms herein. The Board of Directors shall annually adopt a schedule of dues and fees to be charged to Member Entities by the Consortium.

16. **Third Party Contracts:** The Board of Directors shall have the authority to enter into contracts with third parties to fulfill the purposes described herein. In purchasing

and entering into contracts to purchase, the Board of Directors shall use its own duly adopted policies and procedures.

17. **Gifts and Grants:** The Board of Directors shall have the power and authority to accept gifts on behalf of the Consortium, and shall also have the power and authority to seek, in the name of the Consortium, grants from other governmental agencies.

18. **Insurance:** The Board of Directors shall obtain insurance coverage for liability, property, worker's compensation, unemployment compensation, group health insurance, and any other insurances as may be determined by the Board of Directors or required by law. In obtaining such insurance, the Board of Directors may participate in any Member Entity's insurance program, or in any other similar governmental insurance program.

19. **Employees:** Employees of the Consortium shall be its employees and shall not be considered to be the employees of any Member Entity while acting in his or her capacity as employee of the Consortium

20. **Indemnity:** To the fullest extent permitted by law and subject to the provisions and limitations of §768.28, Florida Statutes, the Consortium shall defend, indemnify and hold harmless any Member Entity, its officials, agents and employees from and against any and all non-employee claims, suits, judgments, demands, liabilities, damages, costs and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused by any negligent act or omission of the Consortium, anyone directly or indirectly employed by it, or anyone for whose acts any of them shall be liable.

21. **No Pecuniary Liability of Member Entities.** Neither the provisions, covenants or agreements contained in this Agreement, nor any indebtedness issued pursuant to this Agreement, shall constitute an indebtedness or liability of the Member Entities, except as provided in the respective Sublicense Agreements entered into by and between each Member Entity and Valencia College as required herein. Any indebtedness shall be issued by the Consortium and not the Member Entities. If issued, any indebtedness and the interest thereon shall be limited to, and special obligations of the Consortium, payable solely from the revenues pledged thereto.

22. **No Personal Liability.** No covenant or agreement contained in this Agreement shall be deemed to be a covenant or agreement of any Member Entity, officer, agent or employee of the Consortium nor any officer, agent, or employee of a

Member Entity in his or her individual capacity, and members, officers, agents and employees of the Consortium and the Member Entities shall not be personally liable on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

23. **Filing of Agreement.** It is agreed that this Agreement shall be filed by the Consortium with the Clerk of the Court of Osceola and Orange County, Florida, all in accordance with the Interlocal Act, and that this Agreement shall not become effective until filed as directed herein.

24. **Dissolution:** In the event of dissolution of the Consortium, all authorized debts shall be paid, and any remaining property and assets of the Consortium shall be distributed *pro rata* to its participating Member Entities, in accordance with the amount of funding contributed by each Member Entity during the five years preceding such dissolution. Provided, however, that personal property contributed by any Member Entity shall be returned to the contributing Member Entity, in accordance with the following paragraph.

25. **Contribution of Property:** The Parties to this Interlocal Agreement may contribute or loan equipment or other goods to the Consortium, which shall remain the property of the Contributing Member Entity. Upon dissolution, any such contributed property shall be returned to the Contributing Member Entity.

26. **Reports to Members:** The Board of Directors of Central Florida Fire Consortium shall provide its budget to its member entities each year. In addition, The Board of Directors of the Consortium shall provide an independent annual audit of all receipts and disbursements to each participating entity. Members shall, at all times during normal business hours, have access to the books and records of the Consortium. In addition, copies of the minutes of all regular and special meetings of the Board of Directors shall be provided to each member.

27. **Termination and Initial Term:** The initial term of this Interlocal Agreement shall be for Ten (10) years, and may be renewed thereafter for successive Five (5) year terms.

28. **Withdrawal by Member Entity:** A member may withdraw from participation in the Central Florida Fire Consortium by giving not less than six (6) months written notice to the Board of Directors of the Consortium. Such withdrawal shall not relieve the withdrawing party of financial obligations incurred hereunder.

29. **Termination of a Member Entity:** A Member Entity may, upon a 2/3 majority vote of the Board, for non-payment of financial obligations to the Consortium or for other good cause, be terminated from the Consortium, by giving not less than six (6) months written notice to the Member Entity to be terminated. Such termination shall not relieve the terminated Member Entity from any financial obligations owed or that become owed during the six (6) month notice period.

30. **Privileges and Immunities:** All the privileges and immunities from liability, exemption from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents and employees of Member Entities when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents and employees extraterritorially.

31. **Miscellaneous:**

a. All notices, demands, formal actions or other communications hereunder shall be in writing and mailed, delivered by facsimile or hand delivered to each Member. Members shall keep their contact information current with the Facility Manager

b. This Agreement will inure to the benefit of and be binding upon the parties and their successors and assigns, and will not confer any rights upon any other person other than the Member Entities.

c. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

d. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

e. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

f. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions

shall be null and void and shall in no way affect the validity of any of the other covenants, agreements, or provisions hereof.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized officials as of the day and year set forth below.

**INTERLOCAL AGREEMENT  
CENTRAL FLORIDA FIRE CONSORTIUM**

Approved by Central Florida Fire Consortium Board on \_\_\_\_\_, 2014

**RECITALS**

**WHEREAS**, this is an Interlocal Agreement between the following political subdivisions and municipalities of the State of Florida (collectively, the "Central Florida Fire Consortium" or "Consortium" and individually, "Parties" or "Member Entities"):

- a. City of Orlando
- b. City of Winter Garden
- c. City of Ocoee
- d. City of Maitland
- e. City of Kissimmee
- f. City of St. Cloud
- g. City of Winter Park
- h. Orange County Board of County Commissioners
- i. Reedy Creek Improvement District
- j. Osceola County Board of County Commissioners; and

**WHEREAS**, by Interlocal Agreement dated June 6, 1977, the City of Orlando and the former Orange County Board of Fire Commissioners agreed to jointly sponsor and participate in an "Orlando-Orange Fire Training Academy"; and

**WHEREAS**, the City of Orlando provided for the creation and establishment of the "Orlando-Orange Fire Training Academy Board of Trustees" by adoption of an amendment to Chapter 2 of the Code of the City of Orlando; and

**WHEREAS**, by Interlocal Agreement dated June 3, 1982, (and subsequently updated and agreed upon on March 15, 1994, and again on January 18, 2006) the City of Orlando and Orange County and other then existing member agencies agreed to continue the joint efforts begun as a result of the aforementioned Interlocal Agreement of June 6, 1977; and

**WHEREAS**, by subsequent amendments to Chapter 2 of the Code of the City of Orlando, the Academy was renamed and redesignated as the "Central Florida Fire Academy

at Orlando", then the "Central Florida Emergency Services Institute," and then re-named "Central Florida Fire Academy;" and

**WHEREAS**, the Central Florida Fire Academy no longer operates a state certified education and training program in fire and emergency services; and

**WHEREAS**, the District Board of Trustees of Valencia College, Florida ("Valencia College" or "Valencia") has established the Central Florida Fire Institute at Valencia (the "Institute") to operate a state certified education and training programs in fire and emergency services in its service district of Orange and Osceola Counties, Florida; and

**WHEREAS**, Valencia has entered into a License Agreement (the "License Agreement"), attached to and incorporated herein as Exhibit "A," with the School Board of Orange County, Florida, to use a portion of the facilities at Mid-Florida Technical School, located at 2900 W. Oak Ridge Road, Orlando, Florida 32809, more particularly described in Exhibit "A" to the License Agreement, attached to and incorporated herein (the "Facility") to operate the Institute, such Facility formerly used and operated solely by the Central Florida Fire Academy in accordance with prior interlocal agreements; and

**WHEREAS**, the Central Florida Fire Academy desires to change its name to the Central Florida Fire Consortium and to alter its purpose from locally operating a state certified education and training program in fire and emergency services to that of managing, operating and maintaining the Facility in support of the Institute and training needs of Member Entities and other selected public agencies; and

**WHEREAS**, Valencia desires to engage the Consortium to manage, operate and maintain the Facility in support of the Institute and training needs of Member Entities and other public agencies, such engagement to be documented and governed by a mutually acceptable management agreement ; and

**WHEREAS**, Chapter 163, Florida Statutes provides that a joint exercise of power by public agencies may be made by Agreement in the form of an Interlocal Agreement; and

**WHEREAS**, each of the Parties to this Interlocal Agreement is a "public agency" within the meaning of § 163.01 Florida Statutes; and

**WHEREAS**, the Parties to this Interlocal Agreement desire to collaborate in the operation of the Consortium and further desire to better set forth the working relationship between themselves with respect to the Consortium's operation.

**NOW, THEREFORE, IN CONSIDERATION** of the foregoing and other good and valuable consideration, to include the mutual terms, conditions, promises, and covenants hereinafter contained, the Parties agree as follows:

1. **Recitals:** The recitals set forth above are true and correct, and incorporated as part of this Interlocal Agreement.

2. **Purpose and Intent:** It is the purpose and intent of this Interlocal Agreement to provide for the continuing operation, maintenance, and management of the Facility in support of the Institute and training needs of Member Entities and other public agencies, and to set forth the duties and responsibilities of the participating Parties. It is also the intent of this Agreement to operate the Consortium as a separate entity created by Interlocal Agreement.

3. **Powers Designated:** The Board of Directors of Central Florida Fire Consortium (hereinafter the "Board" or the "Board of Directors") shall possess the power to make and enter into contracts in the name of the Consortium, to employ agencies or employees, to acquire, construct, manage, maintain, or operate buildings, parks, or improvements; to acquire, hold, or dispose of property; and to incur debts, liabilities, or obligations which do not constitute the separate debt, liability, or obligation of any Party to this Interlocal Agreement. All such powers shall be exercised in accordance with the provisions of this Interlocal Agreement, as well as the provisions of Chapters 163 and 119, Florida Statutes.

4. **Board of Directors:**

a. **Governance:** The Consortium shall be governed by its Board of Directors, in accordance with Chapter 163, Florida Statutes, and in accordance with this Interlocal Agreement.

b. **Board Members:** The Fire Chief of each Member Entity to this Interlocal Agreement shall make up the Board of Directors of the Consortium. Each member of the Board of Directors shall be entitled to vote on all issues before the Board as provided herein.

c. **Alternates:** Each member of the Board of Directors may designate, in writing, an alternate to serve as an acting Board Member in the event that he or she is unable to attend a meeting of the Board of Directors. Any such alternate member

of the Board of Directors shall be entitled to vote on any issues before the Board, provided the original Board Member is entitled to vote but is not present.

d. **Board Members not Compensated:** Members of the Board of Directors of the Consortium shall not be compensated for their services as Board Members. However, the Board may from time to time agree in advance to pay the out-of-pocket expenses of any Board member asked to do extraordinary services on behalf of the Board.

5. **Officers:** The Board of Directors shall hold an annual election of officers. Only Board members may serve as officers of the Consortium. The officers shall be President/Chairman, Vice President/Vice Chairman, Secretary, and Treasurer. Duties, responsibilities and authority of Officers shall be defined by the By-Laws, as defined herein.

6. **Meetings:** The Board of Directors shall meet at least quarterly, unless otherwise determined by the Board of Directors, at a time and place to be determined by the Board. In addition, Special Meetings of the Board of Directors may be called from time to time, and the procedures for such meetings shall be set forth in the By-Laws. All meetings and business of the Board of Directors shall be conducted in compliance with Florida's Public Records and open meeting laws.

7. **Voting Weights:** In consideration of the differences in size and scope of the Member Entities, voting weights shall be assigned as follows:

- a. City of Orlando (three (3) votes)
- b. City of Winter Garden (one (1) vote)
- c. City of Ocoee (one (1) vote)
- d. City of Maitland (one (1) vote)
- e. City of Kissimmee (one (1) vote)
- f. City of St. Cloud (one (1) vote)
- g. City of Winter Park (one (1) vote)
- h. Orange County Board of County Commissioners (four (4) votes)
- i. Reedy Creek Improvement District (one (1) vote)
- j. Osceola County Board of County Commissioners (two (2) votes)

8. **Action by Board of Directors:** All actions of the Board of Directors must be approved by a simple majority of those Board members present at the meeting, except that the following matters shall require a two-thirds (2/3) majority of those present for approval:

- a. Approval of annual budget
- b. Hiring or firing of Facilities Manager
- c. Admission of any additional parties to Interlocal Agreement/Board of Directors
- d. Adoption of By-Laws
- e. Amendments to By-Laws
- f. Amendment of Interlocal Agreement
- g. Annual Schedule of Dues and Fees to be charged by the Consortium
- h. Notwithstanding anything contained herein to the contrary, the initiation of litigation or other legal action or proceeding on behalf of the Consortium shall require unanimous (100%) approval of the Board of Directors. Provided however, if a Member Entity's interest is adverse to the Consortium in the proposed litigation or other legal proceeding, the adverse Member Entity will not be entitled to vote on the issue.

9. **Participating Parties:** The parties to this Interlocal Agreement shall be the participants (sometimes referred to herein as "Members" or "Member Entities") in the Consortium. However, the Board of Directors, may, from time to time, allow additional public agencies to participate as Members on such terms and conditions as it may set. In the event that the admission of additional public agencies as Parties to this Interlocal Agreement be approved by a favorable two-thirds (2/3) vote as described in the preceding paragraph, such newly admitted Members must execute and agree to join in this Interlocal Agreement.

10. **Use of Facility and Provision of Services to Non-Member Public Agencies:**

- a. In accordance with the requirements of the License Agreement, all Member Entities shall be required to execute a facility sublicense agreement with Valencia College prior to using the Facility. This facility sublicense agreement is attached as Exhibit "B", and incorporated herein (the "Sublicense Agreement"). Each Member Entity agrees to execute the Sublicense Agreement as a condition of membership in the Consortium.
- b. The Consortium may, with the approval of its Board of Directors,

authorize the use of the Facilities by public agencies that are not named Member Entities in this Interlocal Agreement. However, the Board of Directors shall set an appropriate fee schedule for such non-member participation, and the non-member participant shall be required to execute the Sublicense Agreement with Valencia College prior to using the Facility.

11. **School Board:** The School Board of Orange County has licensed the use of the Facility to Valencia College, and will continue to do so on such terms and conditions as set forth in the License Agreement. The Facility shall remain the property of the School Board of Orange County, and may not be sold, mortgaged, or otherwise encumbered by the Consortium. The Consortium shall enter into a Facility Operations and Management Agreement with Valencia College.

12. **Facility Manager:** The Board of Directors may hire a Facility Manager, who shall be responsible for implementing the Facility Operations and Management Agreement as entered into by and between the Consortium and Valencia College. The Board shall enter into a written employment contract with the Facility Manager, more specifically setting forth the duties, responsibilities and authority of the Facility Manager.

13. **Chief Financial Officer:** The Board of Directors may also hire a Chief Financial Officer, who will be responsible for ensuring that all budgeting, accounts payable, accounts receivable, and other financial matters are conducted following generally accepted governmental accounting practices. The Board may enter into a written employment contract with the Chief Financial Officer, more specifically setting forth the duties, responsibilities, and powers of the Chief Financial Officer.

14. **Committees:** The Board of Directors, in carrying out its duties and responsibilities, may establish committees. The President shall appoint the Members to serve on each such committee.

15. **Budgeting:** The Board of Directors shall annually budget for the operations of the Consortium. Each party to this Interlocal Agreement shall cooperate in providing funding to the Consortium, in accordance with the terms herein. The Board of Directors shall annually adopt a schedule of dues and fees to be charged to Member Entities by the Consortium.

16. **Third Party Contracts:** The Board of Directors shall have the authority to enter into contracts with third parties to fulfill the purposes described herein. In purchasing

and entering into contracts to purchase, the Board of Directors shall use its own duly adopted policies and procedures.

17. **Gifts and Grants:** The Board of Directors shall have the power and authority to accept gifts on behalf of the Consortium, and shall also have the power and authority to seek, in the name of the Consortium, grants from other governmental agencies.

18. **Insurance:** The Board of Directors shall obtain insurance coverage for liability, property, worker's compensation, unemployment compensation, group health insurance, and any other insurances as may be determined by the Board of Directors or required by law. In obtaining such insurance, the Board of Directors may participate in any Member Entity's insurance program, or in any other similar governmental insurance program.

19. **Employees:** Employees of the Consortium shall be its employees and shall not be considered to be the employees of any Member Entity while acting in his or her capacity as employee of the Consortium

20. **Indemnity:** To the fullest extent permitted by law and subject to the provisions and limitations of §768.28, Florida Statutes, the Consortium shall defend, indemnify and hold harmless any Member Entity, its officials, agents and employees from and against any and all non-employee claims, suits, judgments, demands, liabilities, damages, costs and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused by any negligent act or omission of the Consortium, anyone directly or indirectly employed by it, or anyone for whose acts any of them shall be liable.

21. **No Pecuniary Liability of Member Entities.** Neither the provisions, covenants or agreements contained in this Agreement, nor any indebtedness issued pursuant to this Agreement, shall constitute an indebtedness or liability of the Member Entities, except as provided in the respective Sublicense Agreements entered into by and between each Member Entity and Valencia College as required herein. Any indebtedness shall be issued by the Consortium and not the Member Entities. If issued, any indebtedness and the interest thereon shall be limited to, and special obligations of the Consortium, payable solely from the revenues pledged thereto.

22. **No Personal Liability.** No covenant or agreement contained in this Agreement shall be deemed to be a covenant or agreement of any Member Entity, officer, agent or employee of the Consortium nor any officer, agent, or employee of a

Member Entity in his or her individual capacity, and members, officers, agents and employees of the Consortium and the Member Entities shall not be personally liable on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

23. **Filing of Agreement.** It is agreed that this Agreement shall be filed by the Consortium with the Clerk of the Court of Osceola and Orange County, Florida, all in accordance with the Interlocal Act, and that this Agreement shall not become effective until filed as directed herein.

24. **Dissolution:** In the event of dissolution of the Consortium, all authorized debts shall be paid, and any remaining property and assets of the Consortium shall be distributed *pro rata* to its participating Member Entities, in accordance with the amount of funding contributed by each Member Entity during the five years preceding such dissolution. Provided, however, that personal property contributed by any Member Entity shall be returned to the contributing Member Entity, in accordance with the following paragraph.

25. **Contribution of Property:** The Parties to this Interlocal Agreement may contribute or loan equipment or other goods to the Consortium, which shall remain the property of the Contributing Member Entity. Upon dissolution, any such contributed property shall be returned to the Contributing Member Entity.

26. **Reports to Members:** The Board of Directors of Central Florida Fire Consortium shall provide its budget to its member entities each year. In addition, The Board of Directors of the Consortium shall provide an independent annual audit of all receipts and disbursements to each participating entity. Members shall, at all times during normal business hours, have access to the books and records of the Consortium. In addition, copies of the minutes of all regular and special meetings of the Board of Directors shall be provided to each member.

27. **Termination and Initial Term:** The initial term of this Interlocal Agreement shall be for Ten (10) years, and may be renewed thereafter for successive Five (5) year terms.

28. **Withdrawal by Member Entity:** A member may withdraw from participation in the Central Florida Fire Consortium by giving not less than six (6) months written notice to the Board of Directors of the Consortium. Such withdrawal shall not relieve the withdrawing party of financial obligations incurred hereunder.

29. **Termination of a Member Entity:** A Member Entity may, upon a 2/3 majority vote of the Board, for non-payment of financial obligations to the Consortium or for other good cause, be terminated from the Consortium, by giving not less than six (6) months written notice to the Member Entity to be terminated. Such termination shall not relieve the terminated Member Entity from any financial obligations owed or that become owed during the six (6) month notice period.

30. **Privileges and Immunities:** All the privileges and immunities from liability, exemption from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents and employees of Member Entities when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents and employees extraterritorially.

31. **Miscellaneous:**

a. All notices, demands, formal actions or other communications hereunder shall be in writing and mailed, delivered by facsimile or hand delivered to each Member. Members shall keep their contact information current with the Facility Manager

b. This Agreement will inure to the benefit of and be binding upon the parties and their successors and assigns, and will not confer any rights upon any other person other than the Member Entities.

c. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

d. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

e. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

f. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions

shall be null and void and shall in no way affect the validity of any of the other covenants, agreements, or provisions hereof.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized officials as of the day and year set forth below.