PLANT CITY, FLORIDA

INVITATION FOR BIDS
BID NO. 16-98863-01
New Poles and Netting for Ellis Methvin Park

City of Plant City
Procurement Department
302 West Reynolds Street
Plant City, FL 33563
Phone: 813-659-4270
E-mail: wstorey@plantcitygov.com

CITY OF PLANT CITY
PLANT CITY, FLORIDA
New Poles and Netting for Ellis Methvin Park
Bid No. 16-98863-01

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CITY OF PLANT CITY, FLORIDA
Invitation for Bids
New Poles and Netting for Ellis Methvin Park
Bid No. 16-98863-01

Project Summary

The City of Plant City, Florida seeks bids to furnish all labor, materials, and equipment necessary to install new poles and netting for Ellis Methvin Park as specified in the attached documents. This Invitation for Bids and related documents are open for public inspection online at BidSync.com DemandStar.com and www.plantcitygov.com.

Submittal Location & Deadline and Bid Opening

Sealed bids must be delivered to 302 W. Reynolds Street, 3rd Floor, Plant City, Florida 33563. The submittal deadline is not later than **2:00 PM on March 10, 2016,** after which the bids will be opened and the names of each bidder and their total price will be announced.

Questions

Interim Procurement Manager, W. A. "Buddy" Storey, Jr. is the **only** staff designated and authorized to answer questions about this bid. Bidders may rely only on written responses or interpretations from the Interim Procurement Manager. Verbal and/or written responses given by other City staff in response to bidder questions shall not be binding on the City. The City will recognize written addenda issued by the Interim Procurement Manager as the only legitimate method of responding to questions about this bid or the project described within this bid.

The deadline to submit questions is **March 3, 2016 at 10:00 AM.** All answers will be issued in writing via addendum. Questions must be submitted in writing to Mr. Storey at wstorey@plantcitygov.com.

W. A. "Buddy" Storey, Jr.
Procurement Manager

SECTION 1 – BIDDER INSTRUCTIONS

1. Submittal Location & Deadline. Bids must be submitted to the City of Plant City Procurement Department, 302 W. Reynolds Street, 3rd. Floor, Plant City, Florida 33563 by **2:00 PM on March, 2016**. Bids will be time stamped upon receipt. **Bids submitted by fax, e-mail, or telephone will not be accepted. Late bids shall not be accepted.**

2. Submittal Envelope. Bids shall be submitted in a sealed envelope or box clearly marked **"Bid No. 16-98863-01 New Poles and Netting for Ellis Methvin Park".** Bidder shall write its name on the outside of the envelope.

3. Valid Term. Bids shall be valid for no less than 60 days from the submittal deadline.

4. Rejection. The City reserves the right to reject any or all bids at any time and for any reason. Bids submitted after the deadline shall be rejected. Bids submitted in an unsealed or incorrectly marked envelope or box shall be rejected. Fax, e-mail, or telephone bids shall be rejected. Bids which are incomplete, unbalanced, conditional, obscure, or which contain terms or additions not called for, alterations or irregularities of any kind, or which do not comply with the Contract Documents may be rejected at the at the sole discretion of the City.

5. Response Form. Bids shall be made only on the form included in this packet. Bid forms shall be signed by the owner or other authorized individual.

6. Licenses & Certifications. Bidder must include the following with their bid:

    a. Photocopy of valid Florida business license.
    b. Current "ACORD" insurance certificate with at least $1,000,000 in coverage per incident including worker's comp certificate or a photocopy of state certificate of exemption from Worker's Compensation.

7. Bid Bond. A cashier's check or bid bond equal to 5% of the total price for the work proposed must be included with each bid. Checks or bonds must be made payable to "City of Plant City, Florida".

8. Number of Copies. Bids shall be submitted in the following formats

    a. Two (2) paper copies of all required forms and documents, **and;**

b. One electronic copy of all required forms and documents. (PDF on a CD or Thumb Drive)

9. Completeness. The City may reject bids that are incomplete, conditional, deficient in any way, or which contain unsolicited additions/alterations.

10. Review Documents. Bidders must review all specifications and Contract Documents related to this bid and project. Failure to review all specifications, forms, Contracts, addenda, or other documents shall not relieve a bidder from any obligations contained in this bid or a subsequent Contract with the City.

11. Familiarity with Project Area. Prior to submitting a bid, bidders shall become fully acquainted with the project areas. Please see "Scope of Work" for more detail about the project. Submittal of a bid shall serve as bidder's acknowledgement that they are fully familiar with the service area.

12. Fill-In Required Forms & Seal Envelope. Bidders must accurately and completely fill-in all required bid forms included in this packet. Bidder shall submit all documents listed in this Invitation for Bids. Authorized signatures must be included on forms/documents. Incomplete or missing forms/documents may result in rejection of the bid.

13. Certification. Submittal of a bid shall be deemed as certification that a bidder has fully considered all factors associated with this Invitation for Bids, including any addenda.

14. Project Owner. The City of Plant City, Florida owns this project. The City Manager or designee is the City's authorized representative on this project.

15. Verification of Bidder's Capability. The City will verify Bidder's ability to complete the work specified in this bid. The City may, at its sole discretion, determine Bidder's capacity to perform this contract based on, but not limited to, evaluation of the following:
    a. Comparable prior project experience (particularly ones similar to this project size/scope).
    b. Financial resources.
    c. Prior bond history.
    d. Licensure and certifications.
    e. Equipment, machinery, and/or facilities.
    f. Background & references.

    Bidders deemed to be unqualified to perform the work may have their bid rejected.

16. Award. City personnel will evaluate the bids. Determination of the lowest responsive and responsible bid may be made on the basis of the base bid.

    City staff will recommend the lowest responsive and responsible bid to the City Commission. The City Commission makes the final decision regarding award or rejection of bids.

    The City may award a Contract based on bid responses received from bidders without further discussion of such bids with the selected bidder. Therefore, bids should be submitted based on the most favorable terms available.

17. Local Preference. The City has adopted a local preference policy (Section 2-161, Plant City Code). As part of this Invitation for Bids, the local preference policy provides qualifying bidders with an amount not to exceed 1½ percent of the lowest bid, provided that the cost differential from the lowest bid shall not exceed $2,500. Non-qualifying bidders will not receive the 1½ percent. A bidder qualifies for a local preference if it meets all of the following:

    a. Paid its applicable City business tax for the current year in which this Invitation for Bids is issued. Bidders that request local preference must include in their submittal packets a copy of the receipt proving payment of the City's business tax.
    b. Obtained a license issued by the State of Florida allowing it to engage in the business of providing the services requested in this Invitation for Bids.
    c. Maintains a physical office located within the city limits of Plant City. The office must be staffed by at least one full-time

equivalent employee, and must have been established at least six months before the submittal deadline. Post Office boxes are not verifiable and will not be accepted as proof of a physical office location.

d. A bidder that does not meet the criteria above will not receive 1½ percent calculated to the bid price submitted.

18. Waiver of Irregularities. The City may waive informalities or irregularities that in the City's opinion do not materially affect a bid.

19. Notice of Award. When the bid award is scheduled for Commission action, the Procurement Manager shall post a Notice of Intent to Award to the City's website. The Procurement Manager shall notify the selected bidder (if any) in writing following City Commission action on the staff recommendation.

20. Contract Execution & Bid Bond. The selected bidder must sign and return the Contract, any required bonds or letter of credit, insurance certificates, and all other required documents within fourteen calendar days after the City sends the documents to the selected bidder. Once the City receives the signed Contract and all other required documents back from the selected bidder, then the City's authorized representative will sign the Contract.

    Failure to sign and return the Contract and all other required documents within 14 days may result in the City calling the bid bond or cashing the cashier's check submitted by the selected bidder with its proposal; barring the selected bidder from consideration on future projects; or both. The City may then select another bidder to perform the work or provide the goods/services specified in this bid.

21. Notice to Proceed. Following Contract signing by the City, the Interim Procurement Manager will issue a formal "Notice to Proceed" in writing to the Contractor. The Contractor's bid bond will subsequently be returned along with a formal Notice to Proceed from the City's Project Manager.

    If the Contractor begins work before receiving the Notice to Proceed, then the City may stop work on the project, may require the work to be redone at the Contractor's expense and without additional compensation from the City, or both. The City also may revoke the project award and select another bidder to perform the work.

22. Revocation of Award. If the City discovers that the Contractor has misrepresented anything in their bid or that the Contractor – in the City's opinion – is no longer reasonably capable of performing the work as bid, then the City may revoke the award at any time **before** issuing the formal Notice to Proceed. The Interim Procurement Manager will issue the revocation in writing.

23. Bid Interpretations. The City has the right to define and interpret bid terms, specifications, and conditions.

24. Changes or Modifications. The City may at any time make changes within the general scope of the contract in any of the following areas:

    a. Time of Performance (i.e., hours of the day, days of the week, etc.).
    b. Location of performance of the services.
    c. Quantities to be ordered.

    The Contractor shall not commence the performance of additional work or other changes not covered by this contract without an executed notice to proceed or purchase order issued by the City. If the Contractor performs additional work beyond the specific requirements of this contract without an executed change order, it shall be at the Contractor's own risk. The City assumes no responsibility for any additional costs for work not specifically authorized by an executed change order.

25. Conditions of Performance. Bidders are required to inform themselves fully of the conditions relating to performance of the work required, including but not restricted to labor and operating conditions under which the work will be or is now being performed; and the successful bidder must apply, so far as possible, such methods and means in carrying out the work that will not cause any interruption or interference with any other work, construction or operation the Owner has underway.

26. Indefinite Quantity. The quantities of goods and services specified herein are estimates only and are not purchased by the resulting contract. Delivery or performance shall be as authorized by purchase or approved change orders in accordance with the terms of the resulting contract. The City may issue orders requiring delivery to multiple destinations or performance at multiple locations.

27. Contract Documents. The Contract attached hereto is a draft of the Contract required by the City to award the project described in this bid. It is the Bidder's responsibility to review and understand the Contract. If the Bidder requires any modifications or additional terms and conditions to the Contract, the Bidder shall detail the desired changes on a separate page clearly titled "Additional Terms/Modifications". That page then must be attached to the bid response form and submitted as part of the bidder's proposal. **Contract modification requests after the Bidders bid has been submitted shall not be considered.**

28. Payment and Performance Bond. A Payment and Performance Bond is required for the amount of the contract. Contractor shall be responsible for

recording the payment and performance bond and before commencing the work, Contractor shall provide to the City Clerk a certified copy of the recorded bond. As required by 255.05, Florida Statutes, the City may not make any payments to the Contractor until the City Clerk receives the certified copy of the recorded bond.

29. Insurance and Bonds. Insurance and bonds specified in this bid document and the Contract shall conform to and shall be insured by companies meeting the criteria outlined below and within the contract document in Section 8 - Exhibits.
    a. Insurance and bonds shall be countersigned by an agent licensed to do business in the State of Florida.
    b. Surety must be permitted to do business in the State of Florida and shall have been in business and have a record of successful, continuous operation for at least five years.
    c. The surety shall have at least the following minimum rating as listed in Best's Financial Rating:
        i. Financial Strength Rating of "A".

30. Sworn Statement on Public Entity Crimes. A person or affiliate as defined in Section 287.133, Florida Statutes, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a Contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a Contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a Contract with any public entity; and may not transact business with any public entity in excess of $25,000 for a period of 36 months following the date of being placed on the convicted vendor list.

    Bidders must fill out and sign the form titled "SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES." Failure to do so may disqualify the bid.

31. Other Forms & Documents. Bidders are responsible for reviewing and understanding all plans, photos, specifications, forms or other documents associated with the project described in this bid. Submittal of a bid shall serve as bidder's acknowledgement that it has reviewed and understood all such documents.

32. Indemnification. Section 1-16, Plant City Code, prohibits the City from indemnifying other parties to an agreement. Therefore, the City cannot indemnify bidders.

33. All-Inclusive Cost. The bid shall include all expenses necessary to complete the project or provide the services described in this Invitation for Bids. If selected by the City, the Bidder must pay applicable sales tax on any goods or services it purchases. The City is exempt from paying federal and state taxes, including sales tax. The City's sales tax exemption is not assignable and cannot be applied toward items the Contractor purchases, regardless of whether Contractor transfers those items to the City.

34. Bid Preparation & Submittal Expenses. The City shall not be responsible for any expense incurred by a bidder in reviewing, evaluating, preparing, or submitting a bid. Bidders are solely responsible for the entire expense of responding to this bid.

35. Legal Requirements. Bidders are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the services being solicited in this bid. A bidder's lack of knowledge shall in no way be a cause for relief from responsibility, nor shall it constitute a cognizable defense against the legal effects thereof.

    Submittal of a bid shall constitute the bidder's affirmation that they are familiar with and shall comply with all federal, state, and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services. No plea of misunderstanding shall be considered on account of the bidder's ignorance thereof. If a bidder believes provisions in the bid documents are contrary to or inconsistent with any law, ordinance, or regulation, then the Bidder shall promptly report those provisions in writing to the City.

36. Public Records. Bidders understand that Florida has a broad public records law, and that documents in the possession of the City can only be maintained confidential to the extent allowed under the Florida Public Records Act, Florida Statute 119.

37. Cooperative Procurement Agreement. The City of Plant City is a member of the Government Procurement Council of Hillsborough County in accordance with Chapter 69-1119, Laws of Florida. It is hereby made a part of this Invitation to Bid that the submission of any bid in response to this request shall constitute a bid made under the same conditions for the Contract price as this bid to all public entities in Hillsborough County.
    The Procurement Departments of each of the following agencies represented will place their own orders as needs and availability of funds dictate:

GPC LISTING

City of Tampa
Procurement Department
Tampa Municipal Office Building, 2nd Floor
306 E. Jackson St.
Tampa, FL 33602

City of Temple Terrace
P.O. Box 16930
Temple Terrace, FL 33687
813-506-6420 – Telephone
813-989-7185 – Fax

Clerk of Circuit Court
601 E. Kennedy Blvd.-13th Floor
P.O. Box 1110
Tampa, FL 33601
Phone: (813) 276-8100 Ext.7721
FAX: (813) 272-5521
www.hillsclerk.com

Tampa-Hillsborough County Expressway Authority
1104 East Twiggs St. Suite #300
Tampa, Florida 33602
813-272-6740 – Telephone
813-276-2492 – Fax
Nancy@tampa-xway.com

Hillsborough Area Regional Transit Authority
4305 E. 21st Street
Tampa, FL 33605
813-623-5835 – Telephone
813-664-1119 – Fax

Hillsborough Co. Aviation Authority
P. O. Box 22287
Tampa International Airport
Tampa, FL 33622-2287
Phone: (813) 870-8730
FAX: (813) 875-6670
www.tampaairport.com

Hillsborough County School Board
P. O. Box 3408
Tampa, FL 33601-3408
Phone: (813) 272-4329
FAX: (813) 272-4007

Hillsborough Community College
39 Columbia Drive
Tampa, FL 33606
813-253-7060 – Telephone
813-253-7561 – Fax
vmelchoir@hcc.fl.us

Hillsborough County Board of County Commissioners
601 E. Kennedy Blvd., 18th Floor
P. O. Box 1110,
Tampa, FL 33601-1110
Phone: (813) 272-5790
FAX: (813) 272-6290
www.hillsboroughcounty.org

Hillsborough Co. Sheriff's Office
P.O. Box 3371
Tampa, FL 33601
813-247-8033 – Telephone
813-247-8246 – Fax
Jshillady@hcso.tampa.fl.us

State Attorney's Office
Tampa, FL 33602
813-272-5400 – Telephone
813-272-7014 – Fax
Ober_M@SAO13th.com

Tampa Port Authority
P.O. Box 2192
Tampa, FL 33601
813-905-5164 – Telephone
813-905-5109 – Fax

Supervisor of Elections
601 E. Kennedy Blvd., 16th Floor
Tampa, FL 33602
Phone: (813) 276-8274
FAX: (813) 272-7043
www.votehillsborough.org

City of Tampa Housing Auth.
1614 Union Street
Tampa, FL 33607
813-253-0551 – Telephone
813-4522 – Fax
irenew@thafl.com

Tampa Sports Authority
4201 N. Dale Mabry Highway
Tampa, FL 33607
813-673-4300 – Telephone
813-673-4312 – Fax
jhaugabrook@tampasportsauthority.com

Tax Collector
601 E. Kennedy Blvd., 14th Floor
Tampa, FL 33602
Phone: (813) 307-6222
FAX: (813) 307-6521
www.hillstax.org

The Children's Board of Hills. County
1002 E. Palm Avenue
Tampa, FL 33605
Phone: (813) 229-2884
FAX: (813) 228-8122
www.childrensboard.org

University of South Florida
Procurement Services
3702 Spectrum Blvd. UTC135-P
Tampa, FL 33612
813-974-2481 – Telephone
813-974-5362 – Fax
gcotter@admin.usf.edu

Housing Authority of Plant City
1306 Larrick Ln.
Plant City, FL 33563
813-752-0569

Property Appraiser
601 E. Kennedy Blvd., 16th Floor
Tampa, FL 33602
Phone: (813) 272-6100
FAX: (813) 272-5519
www.hcpafl.org

Tampa Palms Community Dev. Dist.
16311 Tampa Palms Blvd W
Tampa, FL 33647
Phone: (813) 977-3933
Fax: (813) 977-6571
www.tpoa.net

SECTION 2 – BID RESPONSE AND FORMS

Pursuant to and in compliance with your Invitation to Bid, Instruction to Bidders, the fixed Price Construction Contract between Owner and Contractor, Special Conditions and other documents related thereto, the undersigned does hereby propose to furnish all labor, materials and other equipment necessary to complete the work as specified herein. All work is to be performed in accordance with the City of Plant City Standards, complete and ready to use; as required by and in strict accordance with the contract documents, specifications, drawings and all addenda, if any issued prior to the date of this proposal at the prices listed herein as follows:

Furnish and Install Poles and Netting at Ellis Methvin Park….Total Price $_____

Total Price in Words: _____

Authorized Signature:_____

Date:_____

THE FOLLOWING SECTION MUST BE COMPLETED BY ALL BIDDERS:

Bidder Name: _____

NOTE: BIDDER NAME MUST MATCH LEGAL NAME ASSIGNED TO TIN NUMBER. CURRENT W9 MUST BE SUBMITTED WITH BID/PROPOSAL.

TIN#: _____ D-U-N-S® **#** _____

_____

(Street No. or P.O. Box Number) (Street Name) (City)

_____

(County) (State) (Zip Code)

Contact Person: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

EMERGENCY CONTACT

Emergency Contact Person: _____

Telephone Number: _____ Cell Phone Number: _____

ACKNOWLEDGEMENT OF ADDENDA

The Bidder shall acknowledge receipt of any addenda issued to this solicitation by completing the blocks below or by completion of the applicable information on the addendum and returning it not later than the date and time for receipt of the bid. Failure to acknowledge an addendum that has a material impact on this solicitation may negatively impact the responsiveness of your bid. Material impacts include but are not limited to changes to specifications, scope of work, delivery time, performance period, quantities, bonds, letters of credit, insurance, or qualifications.

Addendum No._____, Date_____ Addendum No._____, Date_____

Addendum No._____, Date_____ Addendum No._____, Date_____

BIDDER'S QUALIFICATIONS AND REFERENCES

Bidder shall identify experience as the general Contractor of record in the construction or modification of 3 similar projects completed during the previous 10 years in Florida. If firm is less than 3 years in existence, references could include similar projects performed by the principal(s) of the firm within the last 3 years.

Reference #1			
Organization Name:			
Location (City, State):			
Contact Name:			
Telephone:		Date Service Began:	
Email:		Date Service Ended:	
Description of Service:			

Reference #2			
Organization Name:			
Location (City, State):			
Contact Name:			
Telephone:		Date Service Began:	
Email:		Date Service Ended:	
Description of Service:			

Reference #3			
Organization Name:			
Location (City, State):			
Contact Name:			
Telephone:		Date Service Began:	
Email:		Date Service Ended:	
Description of Service:			

SECTION 00401
BID BOND

1. KNOW ALL PERSONS that we, _____as Principal, and _____ as Surety, are held and Bidderly bound unto the City of Plant City, Florida (hereafter called the ("Owner") in the penal sum of _____dollars ($), (5%of the Total Base Bid) as hereinafter set forth and for the payment of which sum well and truly to be made we bind ourselves, our executors, administrators, successors and assigns, jointly and severally, by these presents;

2. The Principal has submitted a proposal to the Owner for the project known as the _____.

3. The condition of this obligation is such that if the Owner shall accept the proposal of the Principal, and

(a) the Principal shall execute such contract documents, if any, as may be required by the terms of the bid and give such Contractor's bond or bonds for the performance of the contract and for the prompt payment of labor and material furnished for the project as may be specified in the proposal or

(b) in the event of the failure of the Principal to execute such contract documents, if any, and give such Contractor's bond or bonds, if the Principal shall pay to the Owner the difference, not to exceed the penal sum hereof between the amount specified in the proposal and such larger amount for which the Owner may in good faith contract with another party to complete the project, then this obligation shall be void, otherwise to remain in full force and effect.

4. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.

5. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the county and state in which the Project is located.

6. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

7. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this

_____day of _____,20_____.

_____*(Seal)*
Principal

ATTEST: _____ *By*_____

_____ _____
Secretary *Title*

(Seal)
Surety

ATTEST: _____ *By*_____

_____ _____
Secretary *Title*

SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, or Contract No. _____

   for_____
   [print name of the public entity]

2. This sworn statement is submitted by_____
   [print individual's name and title]

   for _____
   [print name of entity submitting sworn statement]

   whose business address is _____

   and (if applicable) its Federal Employer Identification Number (FEIN) is_____

   (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement:_____.)

3. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any Proposal or Contract for goods or services to be provided to any public entity or an agency or political subdivision involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

4. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment of information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

5. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

   a. Predecessor or successor of a person convicted of a public entity crime; or

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime.

c. Those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The Ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Check the one statement that applies.]

_____Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the Bidder or Vendor (Bidder) or any affiliate of the Bidder or Vendor (Bidder) has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies):

_____There has been a proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings. The Final Order entered by the Hearing Officer did not place the person or affiliate on the convicted vendor list. [Attach a copy of the final order]

_____The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order).

_____The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services).

_____ _____

[Signature] [Date]

STATE OF FLORIDA_____COUNTY OF_____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first_____

_____being sworn by me, affixed his/her signature in the space
[Name]

provided above on this day of_____, 20___.

Notary Public My commission expires_____

PAYMENT AND PERFORMANCE BOND
Surety's Bond No. _____
City's Contract No. _____

Contractor (Principal):

Name: _____
Address: _____
_____
Phone ( )_____

Surety:

Name: _____
Address: _____
_____
Phone ( )_____

Owner:

City of Plant City, Florida
302 West Reynolds Street
Plant City, FL 33563
(813) 659-4200

BY THIS BOND, We _____, as Principal and _____, a Corporation, as Surety, are bound to the City of Plant City, Florida, a Florida Municipal Corporation, herein called Owner, in the sum of $_____ for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated _____, 20____, between Principal and Owner for construction of _____
_____
_____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

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

3. Pays Owner all losses and damages, including, but not limited to, delay damages, and all expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and

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

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

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

DATED ON _____, 20____.

WITNESSES:

_____
Name of Principal

_____ By: _____

Print name: _____

Title: _____

_____

Print name: _____

_____ _____

Print name: _____ Name of Surety

_____ By: _____

Print name: _____ Attorney-in-fact*

*(As Attorney in Fact) attach Power of Attorney and Current Certificate with Original Signature

SECTION 3 – SCOPE OF WORK AND SPECIFICATIONS

Scope of Work

To furnish and install poles and netting in 10 locations at the Ellis Methvin Park, Plant City, Florida. The specific locations are shown on drawings attached to the bid document. The successful Bidder shall be required to submit signed and sealed drawings by a professional engineer registered and licensed in the State of Florida to the Building Department for a permit to construct the poles and netting.

General Notes

It is recommended that Bidders visit the Ellis Methvin Park site to look at the areas where the poles and netting are to be installed. There are a total of 10 locations where the poles and netting will be installed at the end or between playing fields.

The selected Bidder shall provide shop drawing submittal for the poles, hangers for the nets and the nets to be installed. A building permit is required for the construction of the poles.

Specifications

Netting Specifications

Panels are to be 132' x 25'
#36 Lacrosse certified netting
1 $^{1}/_{2}$" square mesh, knotted nylon black
UV treated, rope bound

Pole Specifications

Three poles per location; 8-inch galvanized poles at each end with a 6-inch galvanized pole in the center
Pole height to be 25 feet above ground
Depth and support of pole buried shall be per design by a professional engineer registered and licensed in the State of Florida

SECTION 4 – SPECIAL PROVISIONS

1. Definitions

Wherever used in any of the Contract Documents, the meaning shall be given to the terms herein defined:

1.1 The term "Contractor" means the person, Bidder or corporation to whom the herein Contract is awarded by the Owner and who is subject to the terms hereof.

1.2 The term "Subcontractor" means a person, Bidder or corporation supplying services and materials, labor and materials, or only services or labor for work in connection with the project.

2. Accident Prevention

Precaution shall be exercised the use of modern safety rules and practices at all times for the protection of persons (including employees) and property, and hazardous conditions shall be guarded against or eliminated.

3. Qualifications for Employment

No person shall be employed in violation of the State or the National Labor Laws. No person under the age of sixteen years shall be employed on the project under this Contract. No person whose age or physical condition is such as to make this employment dangerous to his health or safety or to the health or safety of others shall be employed on the project under this Contract; provided, that shall not operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform.

4. Substitutions

Unless otherwise stated, reference in the specifications to any article, device, product, materials, fixture, form, or type of construction, etc., by name, make or catalogue number, shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition. The determination of whether any article, device, product, material, fixture, form or type of construction is equal to that named is solely in the determination of the Owner. No Substitutions shall be permitted without the prior express written authorization from the Owner.

5. Patents

The Contractor shall hold and save the Owner and his officers, agents, servants, and employees harmless from liabilities of any nature or kind, including costs and expenses for, or on account

of, any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the Contract, including its use by the Owner at any time during the prosecution or after completion of the work unless otherwise specifically stipulated in the Contract Documents.

6. Use of Premises

6.1 The Contractor shall confine his apparatus, storage of materials, and construction operations to such limits as may be directed by the Owner and shall not unreasonably encumber the premises with his materials. Any damage done to public or private property shall be repaired at the Contractor's expense to the preconstruction condition or better. It is mandatory that a preconstruction video be made to determine actual preconstruction conditions should a dispute arise. Be sure to note address, type of sod, any existing damage and show these items on the video.

6.2 The Contractor shall not load or permit any part of any structure to be loaded to such an extent as to endanger its safety.

6.3 The Contractor shall provide and maintain at his own expense, in a sanitary condition, such accommodations for the use of his employees as is necessary to comply with the requirements and regulations of the State Department of Environmental Regulation and Health Department. He shall commit no public nuisance.

7. Overtime Work by Owner Employees

Where the Contractor elects to work on a Saturday, Sunday or other holiday, or longer than an eight-hour work shift on a regular working day, such work shall be considered as overtime work. On all such overtime work an inspector will be present. The Contractor shall reimburse the Owner for the full amount of the straight time plus overtime costs for employees of the Owner required to work overtime hours. The Contractor by these specifications does hereby authorize the Owner to deduct the cost of overtime work at the rate of $35 per hour from the amount due or to become due him.

Overtime due to special construction problems such as concrete, finishing, asphalt rolling, making live sewer hookups, alleviating traffic problems, etc., may not be charged if the City Manager considers the overtime to be mutually justified. Normal engineering inspection hours are 7:00 a.m. to 5:00 p.m. Monday through Friday.

Recognized Holidays shall be as follows:

1. New Year's Day
2. Martin Luther King Day
3. Strawberry Festival Parade Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. Day after Thanksgiving
10. Christmas Eve's Day
11. Christmas Day

8. References

Any reference in this document to any specification, publication, or test method shall be construed as meaning the latest edition, revision, change, or modification of same.

ATTACHMENTS:

The following are attached hereto as a part of this bid document:

Plans/Drawings
Draft Contract

PLANS AND CONSTRUCTION DRAWINGS

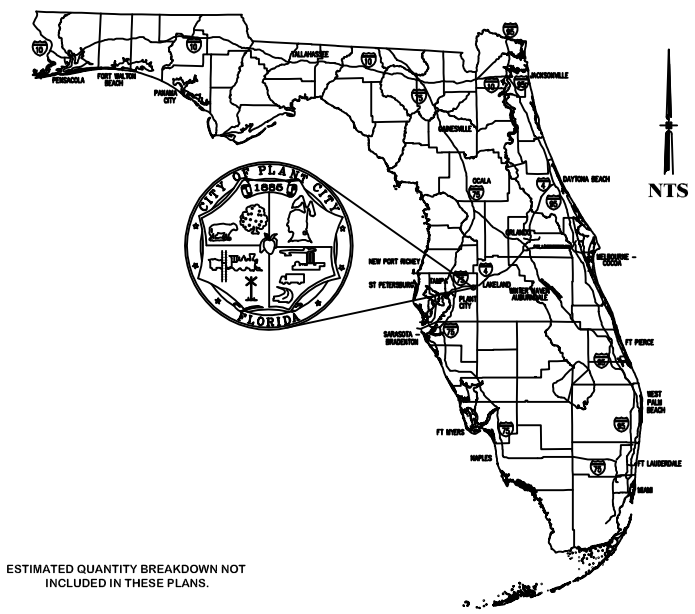
ELLIS-METHVIN PARK
PHASE 2

INDEX OF DRAWINGS

TITLE	SHEET NO.
COVER SHEET	1
PLOES AND NETTING	2

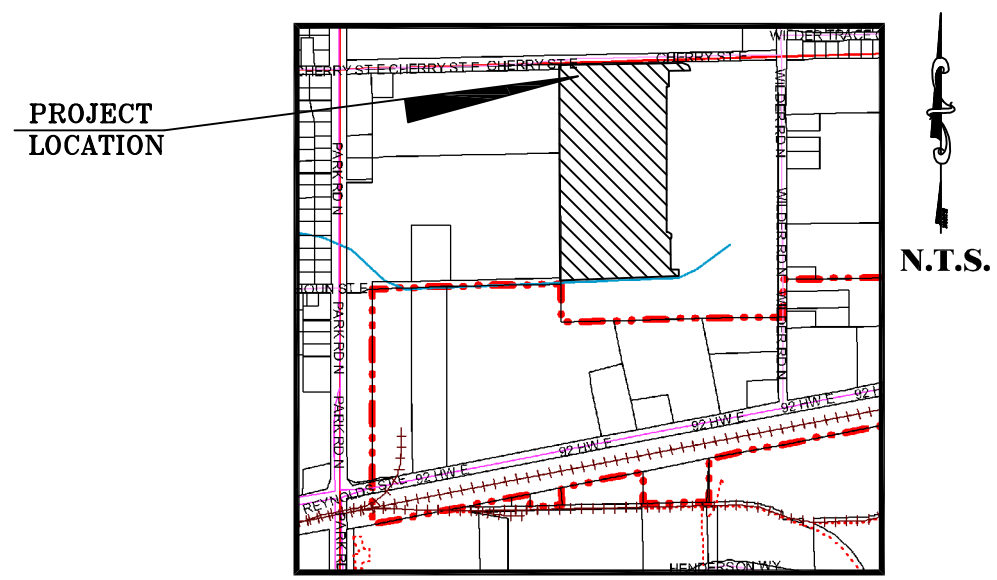
POLES AND NETTING

LOCATION MAP



ESTIMATED QUANTITY BREAKDOWN NOT INCLUDED IN THESE PLANS.

PROJECT LOCATION MAP



SECTION 27, TOWNSHIP 28 S., RANGE 22 E.
PLANT CITY, FLORIDA
Folio #: 090746.0000

UTILITY CONTACTS

WATER
CITY OF PLANT CITY PUBLIC WORKS DIVISION
302 W. REYNOLDS STREET
PLANT CITY, FLORIDA 33566
CONTACT: MIKE O'KEEFE (813-659-4200)

SEWER
CITY OF PLANT CITY PUBLIC WORKS DIVISION
302 W. REYNOLDS STREET
PLANT CITY, FLORIDA 33566
CONTACT: MIKE O'KEEFE (813-659-4200)

POWER
TAMPA ELECTRIC COMPANY
P.O. BOX 111
TAMPA, FLORIDA 33601
CONTACT: JOHN STALNAKER (813-630-7153)

TELEPHONE
VERIZON
120 E. LIME STREET, 4th FLOOR
LAKELAND, FLORIDA 33801
CONTACT: KIM WILEY (813-682-8077)

CONTRACTOR IS RESPONSIBLE FOR CONTACTING ALL UTILITY PROVIDERS AND SUNSHINE STATE ONE CALL FOR UTILITY LOCATIONS IN THIS PROJECT.

CITY OF PLANT CITY
ENGINEERING DIVISION
PLANT CITY, FLORIDA
FEBRUARY 16, 2016

ALL ELEVATIONS REFER TO N.A.V.D. (1988)
N.A.V.D. 1988 + 0.86 = N.G.V.D. 1929

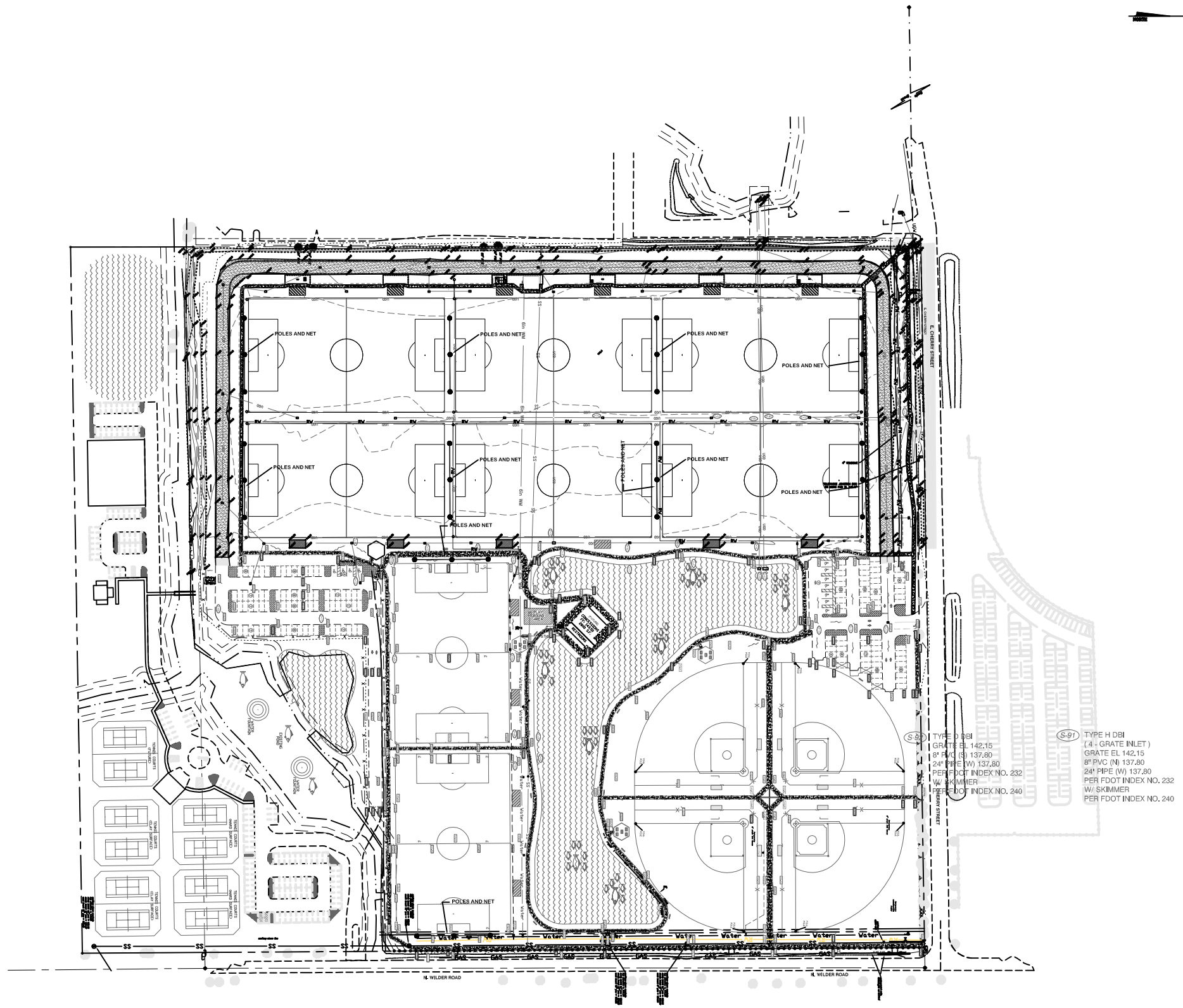
THIS PLAN HAS BEEN CERTIFIED BY THE DESIGN ENGINEER TO BE IN SUBSTANTIAL CONFORMANCE WITH THE "UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE OF STREETS AND HIGHWAYS" AS REQUIRED BY SECTION 336.045, FLORIDA STATUTES.

PREPARED BY
MARTHA GEISENDORFER
CADD CONSULTANT
IN CONJUNCTION WITH
ENGINEERING DIVISION

302 W. REYNOLDS ST
PLANT CITY, FL 33564
(813) 659-4200
mschenk@plantcitygov.com

MICHAEL A. SCHENK, P.E. #349134
ENGINEER OF RECORD

W:\Engineering\Engineering Division\Ellis-Methvin Park\Poles and field nets\POLES AND NETTING.dwg



LEGEND

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
TOB	Top of Bank		Cable Television Pedestal		Light Pole		Swale
TOS	Toe of Slope		Temporary Benchmark		Power Pole & Guy Wire	—FOC—FOC—	Fiber Optic Cable
EOP	Edge of Pavement	TBM	Temporary Benchmark		Mitered End-Section	—UE—UE—	Underground Electric
R/W	Right of Way		Tree	CPP	Corrugated Plastic Pipe	—X—X—	Fence
	Gas Valve		Electric Vault	CMP	Corrugated Metal Pipe	—E—E—	Overhead Utility Lines
	Sign	INVERT	Invert	RCP	Reinforced Concrete Pipe		Spot Elevation
	Fire Hydrant		Electrical Pull Box	PVC	Polyvinyl Chloride Pipe		Spot Elevation (Hard Surface)
	Water Valve		Telephone Pull Box	DIP	Ductile Iron Pipe		

REVISIONS

BY	DATE	DESCRIPTION
TRR	1/5/16	IRRIGATION
TRR	1/14/16	REMOVED—GRAPHICAL—SCALE
TRR	2/16/16	FINAL—PLAN

CITY OF PLANT CITY

ENGINEERING DIVISION
P.O. BOX C
PLANT CITY, FLORIDA 33564
(813) 659-4200

LOCATION: ELLIS—METHVIN PARK PHASE 2
PLANT CITY, FLORIDA

PROPOSED: POLES AND NETTING

SCALE: HORIZ: _____
SCALE: VERT: N/A

DWG NAME: POLES AND NETTING.DWG
DWG DIRECTORY: W:\ENGINEERING\ENGINEERING DIVISION\ELLIS—METHVIN PARK\POLES AND FIELD NETS

DRAWN BY: TRR DATE: 1/5/2016
CHECKED BY: TRR DATE: 1/5/5016
APPROVED BY: TRR DATE: 1/5/2016

Michael A. Schenk, P.E.—City Engineer
P.E. NUMBER — 349134

SHEET 2 OF 2

FIXED PRICE CONSTRUCTION CONTRACT BETWEEN OWNER AND CONTRACTOR

This FIXED PRICE CONSTRUCTION CONTRACT BETWEEN OWNER AND CONTRACTOR (the "Contract") is made and entered into by and between the City of Plant City, a Florida Municipal Corporation (the "Owner") and _____ (the "Contractor"). This Contract is executed under seal, and shall be effective on _____ ("Effective Date").

This Contract is for the construction of a project identified as furnish and install field poles and netting at Ellis-Methvin Park (the "Project").

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree:

1.

DOCUMENTS INCORPORATED BY REFERENCE

This Contract includes the plans and specifications for the Project identified thereon as such, plus the following (if any): Invitation to Bid #16-98863-01, Instructions to Bidders, Executed Bid Form, General Conditions, Special Provisions, Specifications, Payment and Performance Bond, and Construction Plans prepared by City Engineering Department dated February 16, 2016, all of which are hereby incorporated herein by reference and made a part hereof. Change Orders issued hereafter, and any other amendments executed by the Owner and the Contractor, shall become and be a part of this Contract. Documents not included or expressly contemplated in this Paragraph 1 do not, and shall not, form any part of this Contract. **Notwithstanding, no deviations in the Contractor's Executed Bid form from the Invitation to Bid, Construction Plans or other Contract documents prepared by the City shall be incorporated herein unless expressly provided in this Contract. Any conflict with the Contractor's Executed Bid Form and the Invitation to Bid, Construction Plans and other contract documents prepared by the City shall be construed in favor of the contract documents prepared by the City.**

2.

REPRESENTATIONS OF THE CONTRACTOR

In order to induce the Owner to execute this Contract and recognizing that the Owner is relying thereon, the Contractor, by executing this Contract, makes the following express representations to the Owner:

(A) The Contractor is fully qualified to act as the contractor for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to act as the contractor for, and to construct, the Project;

(B) The Contractor has become familiar with the Project site and the local conditions under which the Project is to be constructed and operated;

(C) The Contractor has received, reviewed and carefully examined all of the documents which make up this Contract, including, but not limited to, the plans and specifications, and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for construction.

(D) Contractor warrants good right and title to all material, supplies, and equipment installed or incorporated in the work and agrees upon completion of all work to deliver to Owner all material, supplies, and equipment installed or incorporated in the work constructed free of any claims, liens, or charges.

3.

INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the Owner and the Contractor agree as follows:

(A) This Contract, together with the Contractor's and Surety's Payment and Performance Bonds for the Project, if any, constitute the entire and exclusive agreements between the parties with reference to the Project, and said Contract supersedes any and all prior discussions, communications, representations, understandings, negotiations, or agreements. This Contract also supersedes any bid documents;

(B) Anything that may be required, implied or inferred by the documents which make up this Contract, or any one or more of them, shall be provided by the Contractor for the Contract Price;

(C) Nothing contained in this Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between the Owner and any person except the Contractor;

(D) When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage;

(E) The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation";

(F) The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract;

(G) The Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the documents which make up this Contract, shop drawings, and other submittals and shall give written notice to the Owner of any conflict, ambiguity, error or omission which the Contractor may find with respect to these documents before proceeding with the affected work. The express or implied approval by the Owner of any shop drawings or other submittals shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has prepared, or had someone prepare, documents for the Project, including the plans and specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. The Contractor again hereby acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made;

(H) In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:

(1) As between figures given on plans and scaled measurements, the figures shall govern;

(2) As between large scale plans and small scale plans, the large scale plans shall govern;

(3) As between plans and specifications, the requirements of the specifications shall govern;

(4) As between this document and the plans or specifications, this document shall govern.

(I) The Owner's representative shall be the City Manager.

4.

OWNERSHIP OF THE DOCUMENTS WHICH MAKE UP THE CONTRACT

The documents which make up this Contract, and each of them, as well as any other documents furnished by the Owner, shall remain the property of the Owner. The Contractor shall have the right to keep one (1) copy of the Contract upon completion of the Project; provided, however, that in no event shall the Contractor use, or permit to be used, any portion or all of such Contract on other projects without the Owner's prior written authorization.

5.

CONTRACTOR'S PERFORMANCE

The Contractor shall perform all of the work required, implied or reasonably inferable from this Contract including, but not limited to, the following:

(A) Construction of the Project;

(B) The furnishing of any required surety bonds and insurance;

(C) The provision or furnishing, and prompt payment therefor, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities, required for construction and all necessary building permits and other permits required for the construction of the Project; and

(D) The creation and submission to the Owner of detailed and comprehensive as-built drawings depicting all as-built construction. Said as-built drawings shall be submitted to the Owner upon final completion of the Project and receipt and approval of same by the Owner shall be a condition precedent to final payment to the Contractor.

6.

TIME FOR CONTRACTOR'S PERFORMANCE

(A) The Contractor shall commence the performance of this Contract <u>within five (5) calendar days after date of written notice to proceed</u> and shall diligently continue its performance to and until final completion of the Project. The Contractor shall accomplish Substantial Completion of the Project on or before forty-five (45) days from written Notice to Proceed;

(B) The Contractor shall pay the Owner the sum of <u>One Hundred and No/100 Dollars ($100.00)</u> per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at the time of executing this Contract. When the Owner reasonably believes that Substantial Completion will be unexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages;

(C) The term "Substantial Completion", as used herein, shall mean that point at which the Project is at a level of completion in strict compliance with this Contract such that the Owner or its designee can enjoy beneficial use or occupancy and can use or operate it in all respects, for its intended purpose. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion;

(D) All limitations of time set forth herein are material and are of the essence of this Contract.

7.

FIXED PRICE AND CONTRACT PAYMENTS

(A) The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations hereunder the fixed price of _____ Dollars ($_____). The price set forth in this Subparagraph 7(A) shall constitute the Contract Price, which shall not be modified except by Change Order as provided in this Contract;

(B) Within ten (10) calendar days of the effective date hereof, the Contractor shall prepare and present to the Owner the Contractor's Schedule of Values apportioning the Contract Price among the different elements of the Project for purposes of periodic and final payment. The Contractor's Schedule of Values shall be presented in whatever format, with such detail, and backed up with whatever supporting information the Owner requests. The Contractor shall not imbalance its Schedule of Values nor artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Contractor's Schedule of Values will be utilized for the Contractor's Payment Requests but shall only be so utilized after it has been acknowledged in writing by the Owner;

(C) The Owner shall pay the Contract Price to the Contractor in accordance with Section 218.70, Florida Statutes ("Local Government Prompt Payment Act") and the procedures set forth in this Paragraph 7. **As provided in Section 255.05(b), Florida Statutes, no payment shall be made to the Contractor until Contractor has provided the Owner with a certified copy of the recorded payment and performance bond.** On or before the 1st day of each month after commencement of performance, but no more frequently than once monthly, the Contractor may submit a Payment Request for the period ending the 15th day of the prior month to the following:

Owner:

City of Plant City
c/o Michael A. Schenk
City Engineer
302 West Reynolds Street
Plant City, FL 33563

With a copy to:

Kenneth W. Buchman, Esq.
City Attorney
City of Plant City
302 West Reynolds Street
Plant City, FL 33563

Said Payment Request shall be in such format and include whatever supporting information as may be required by the Owner. Therein, the Contractor may request payment for ninety percent (90%) of that part of the Contract Price allocable to Contract requirements properly provided, labor, materials and equipment properly incorporated in the Project, and materials or equipment necessary for the Project and properly stored

at the Project site (or elsewhere if offsite storage is approved in writing by the Owner), less the total amount of previous payments received from the Owner.

Notwithstanding anything herein to the contrary, Contractor shall not be paid for equipment and materials until after installation.

Each such Payment Request shall be signed by the Contractor and shall constitute the Contractor's representation that the quantity of work has reached the level for which payment is requested, that the work has been properly installed or performed in strict compliance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the Owner shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work is as represented in the Payment Request and is as required by this Contract. The Owner shall approve in writing the amount which, in the opinion of the Owner, is properly owing to the Contractor. The Owner shall make payment to the Contractor in accordance within twenty-five (25) business days after the date of which the Payment Request is stamped as received as provided in Section 218.74(1), Florida Statutes. The amount of each such payment shall be the amount approved for payment by the Owner less such amounts, if any, otherwise owing by the Contractor to the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The submission by the Contractor of a Payment Request also constitutes an affirmative representation and warranty that all work for which the Owner has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever. As a condition precedent to payment, the Contractor shall provide the Owner a certified copy of the bond as required in Section 255.05, Florida Statutes, and if required by the Owner, also furnish to the Owner a properly executed release from the surety or a Waiver of Right of Claim Against the Payment Bond in the form as provided in Section 255.05, Florida Statutes, from all subcontractors, materialmen, suppliers and other person or entity who has, or might have a claim against the Owner for the work done on the Owner's property. Furthermore, the Contractor warrants and represents that, upon payment of the Payment Request submitted, title to all work included in such payment shall be vested in the Owner;

(D) When payment is received from the Owner, the Contractor shall immediately pay all subcontractors, materialmen, laborers and suppliers the amounts they are due for the work covered by such payment. In the event the Owner becomes informed that the Contractor has not paid a subcontractor, materialman, laborer, or supplier within 10 days after the Contractor's receipt of payment, the Owner shall have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due hereunder naming the Contractor and any such subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future. The joint check procedure shall not be required by the Owner if Contractor has provided Owner with a written consent from the surety regarding the project or payment as provided in Section 255.05(11), Florida Statutes;

(E) Neither payment to the Contractor, utilization of the Project for any purpose by the Owner, nor any other act or omission by the Owner shall be interpreted or construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract;

(F) The Owner shall have the right to refuse to make payment and, if necessary, may demand the return of a portion or all of the amount previously paid to the Contractor due to:

(1) The quality of a portion, or all, of the Contractor's work not being in accordance with the requirements of this Contract;

(2) The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;

(3) The Contractor's rate of progress being such that, in the Owner's opinion, Substantial Completion or final completion, or both, may be unexcusably delayed;

(4) The Contractor's failure to use Contract funds, previously paid the Contractor by the Owner, to pay Contractor's Project-related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;

(5) Claims made, or likely to be made, against the Owner or its property;

(6) Loss caused by the Contractor;

(7) The Contractor's failure or refusal to perform any of its obligations to the Owner.

In the event that the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Subparagraph 7(F), the Contractor shall promptly comply with such demand;

(G) If within thirty (30) days from the date payment to the Contractor is due, the Owner, without cause or basis hereunder, fails to pay the Contractor any amounts then due and payable to the Contractor, the Contractor shall have the right to cease work until receipt of proper payment after first providing ten (10) days' written notice of its intent to cease work to the Owner. Any payment not made within thirty (30) days after the date due shall bear interest at the rate of twelve percent (12%) per annum;

(H) When Substantial Completion has been achieved, the Contractor shall notify the Owner in writing and shall furnish to the Owner a proposed punch list listing of those matters yet to be finished. The Owner will thereupon conduct an inspection to confirm that the work is in fact substantially complete and shall upon determining that the work is substantially complete, shall review and revise, if necessary, the proposed punch list. Upon its confirmation that the Contractor’s work is substantially complete, the Owner will so notify the Contractor in writing and will therein set forth the date of Substantial Completion and furnish the final punch list of items that need to be completed for final completion. If the Owner, through its inspection, fails to find that the Contractor's work is substantially complete, and is required to repeat all, or any portion, of its Substantial Completion inspection, the Contractor shall bear the cost of such repeat inspection(s) which cost may be deducted by the Owner from any payment then or thereafter due to the Contractor. Guarantees and equipment warranties required by this Contract shall commence on the date of Substantial Completion. Upon Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to ninety percent (90%) of the Contract Price less any amounts attributable to liquidated damages, and less the reasonable costs as determined by the Owner for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or threatened claims;

(I) When the Project is finally complete and the Contractor is ready for a final inspection, it shall notify the Owner thereof in writing. Thereupon, the Owner will perform a final inspection of the Project. If the Owner confirms that the Project is complete in full accordance with this Contract and that the Contractor has performed all of its obligations to the Owner hereunder, the Owner will furnish a final Approval for Payment and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Owner is unable to issue its final Approval for Payment and is required to repeat its final inspection of the Project, the Contractor shall bear the cost of such repeat inspection(s), which costs may be deducted by the Owner from the Contractor's final payment;

(J) If the Contractor fails to achieve final completion within 30 days of (i) Substantial Completion, or (ii) the Owner’s delivery to the Contractor of the punch list described in Subparagraph 7(H) herein, whichever is later, the Contractor shall pay the Owner the sum of Fifty and 00/100 Dollars ($50.00) per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that final completion will be unexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages;

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(K) Prior to being entitled to receive final payment, and as a condition precedent thereto, the Contractor shall furnish the Owner, in the form and manner required by Owner, if any:

(1) An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;

(2) Separate Waiver of Right of Claim Against the Payment Bond in the form as provided in Section 255.05, Florida Statutes from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has, or might have a claim against the Owner, or written consent from the surety regarding the project or payment as provided in Section 255.05(11), Florida Statutes; and

(3) All product warranties, operating manuals, instruction manuals and other record documents, drawings (including as-built drawings), satisfactory test results and things customarily required of the Contractor, or expressly required herein or set forth in the bid documents, as a part of or prior to Project closeout.

(L) The Owner shall, subject to its rights set forth in Subparagraph 7(F) above, make final payment of all sums due the Contractor within ten (10) days of the Owner's execution of a final Approval for Payment.

(M) In accordance with Section 218.76, Florida Statutes, if a dispute arises between the Contractor and the Owner concerning payment of a Payment Request which is not resolved within 30 days of the Payment Request, the dispute shall be determined by the City Manager pursuant to the following. Proceedings before the City Manager shall commenced within 45 days and concluded within 60 days after the date of the Payment Request was received by the Owner’s representative listed in Subparagraph 7(B) herein. The proceedings are not subject to Chapter 120, Florida Statutes and do not constitute an administrative proceeding that prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the Owner, interest charges begin to accrue 15 days after the City Manager’s final determination. If the dispute is resolved in favor of the Contractor, then interest begins to accrue as of the original date the payment became due. Notwithstanding, nothing herein shall prevent the Contractor and City from resolving the matter prior to final determination of the City Manager.

8.

INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

(A) The Owner shall furnish to the Contractor, prior to the execution of this Contract, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to the Contractor only in order to make complete disclosure of such material as being in the possession of the Owner and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefor. The Owner shall also furnish, if appropriate, the legal description of the Project site, and any required survey;

(B) The Owner shall obtain all required authorizations, approvals, easements, and the like excluding the building permit and other permits or fees required of the Contractor by this Contract, or permits and fees customarily the responsibility of the Contractor;

(C) The Owner will provide the Contractor two (2) copies of the complete Contract. The Contractor will be charged, and shall pay the Owner, the actual cost of duplication for any additional copy of the Contract which it may require.

9.

CEASE AND DESIST ORDER

In the event the Contractor fails or refuses to perform the work as required herein, the Owner may instruct the Contractor to cease and desist from performing further work in whole or in part. Upon receipt of such instruction, the Contractor shall immediately cease and desist as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected, no longer exists, or the Owner instructs that the work may resume. In the event the Owner issues such instructions to cease and desist, and in the further event that the Contractor fails and refuses within seven (7) days of receipt of same to provide adequate assurance to the Owner that the cause of such instructions will be eliminated or corrected, then the Owner shall have the right, but not the obligation, to carry out the work with its own forces, or with the forces of another contractor, and the Contractor shall be fully responsible and liable for the costs of performing such work by the Owner. The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the Contractor.

10.

DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

In addition to any and all other duties, obligations and responsibilities of the Contractor set forth in this Contract, the Contractor shall have and perform the following duties, obligations and responsibilities to the Owner:

(A) The Contractor is again reminded of its continuing duties set forth in Subparagraph 3(G), which are by reference hereby incorporated in this Subparagraph 10(A). The Contractor shall not perform work without adequate plans and specifications, or, as appropriate, approved shop drawings, or other submittals. If the Contractor performs work knowing or believing it involves an error, inconsistency or omission in the Contract without first providing written notice to the Owner, the Contractor shall be responsible for such work and pay the cost of correcting same;

(B) All work shall strictly conform to the requirements of this Contract;

(C) The work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts or omissions of those engaged in the work on behalf of the Contractor;

(D) The Contractor hereby warrants that all labor furnished under this Contract shall be competent to perform the tasks undertaken, that the product of such labor shall yield only first-class results, that all materials and equipment provided shall be new and of high quality, that the completed work will be complete, of high quality, without defects, and that all work strictly complies with the requirements of this Contract. Any work not strictly complying with the requirements of this Subparagraph shall constitute a breach of the Contractor's warranty;

(E) The Contractor shall obtain and pay for all required permits, fees and licenses customarily obtained by the Contractor. The Contractor shall comply with all legal requirements applicable to the work;

(F) The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Key supervisory personnel assigned by the Contractor to this Project are as follows:

NAME	FUNCTION
_____	_____
_____	_____
_____	_____

So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assumes one or more of those functions listed above, the Contractor shall be bound by the provisions of this Subparagraph 10(F) as though such individuals had been listed above;

(G) The Contractor, within fifteen (15) days of commencing the work, shall provide to the Owner, and comply with, the Contractor's schedule for completing the work. Such schedule shall be in a form acceptable to the Owner. The Contractor's schedule shall be updated no less frequently than monthly (unless the parties otherwise agree in writing) and shall be updated to reflect conditions encountered from time to time and shall apply to the total Project. Each such revision shall be furnished to the Owner. Strict compliance with the requirements of this Subparagraph 10(G) shall be a condition precedent to payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract;

(H) The Contractor shall keep an updated copy of this Contract at the site. Additionally, the Contractor shall keep a copy of approved shop drawings and other submittals. All of these items shall be available to the Owner at all regular business hours. Upon final completion of the work, all of these items shall be finally updated and provided to the Owner and shall become the property of the Owner;

(I) Shop drawings and other submittals from the Contractor do not constitute a part of the Contract. The Contractor shall not do any work requiring shop drawings or other submittals unless such shall have been approved in writing by the Owner. All work requiring approved shop drawings or other submittals shall be done in strict compliance with such approved documents. However, approval by the Owner shall not be evidence that work installed pursuant thereto conforms to the requirements of this Contract. The Owner shall have no duty to review partial submittals or incomplete submittals. The Contractor shall maintain a submittal log which shall include, at a minimum, the date of each submittal, the date of any resubmittal, the date of any approval or rejection, and the reason for any approval or rejection. The Contractor shall have the duty to carefully review, inspect and examine any and all submittals before submission of same to the Owner;

(J) The Contractor shall maintain the Project site in a reasonably clean condition during performance of the work. Upon final completion, the Contractor shall thoroughly clean the Project site of all debris, trash and excess materials or equipment;

(K) At all times relevant to this Contract, the Contractor shall permit the Owner to enter upon the Project site and to review or inspect the work without formality or other procedure.

11.

INDEMNITY

Contractor shall indemnify and hold the City, and its officers and employees, harmless from liabilities, damages, losses and costs, including, but not limited to, attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of Contractor or other persons employed or utilized by Contractor in the performance of the Contract; provided however, that this indemnification shall be limited to the amount of this Contract.

12.

NO DESIGN PROFESSIONAL

There is no architect or consulting engineer acting as Owner's agent including inspection of work or progress of Contractor in this contract. Accordingly, the Owner shall have the following duties and responsibilities:

(A) The Owner shall draft proposed Change Orders;

(B) The Owner shall approve, or respond otherwise as necessary concerning shop drawings or other submittals received from the Contractor;

(C) The Owner shall be authorized to refuse to accept work which is defective or otherwise fails to comply with the requirements of this Contract. If the Owner deems it appropriate, the Owner shall be authorized to call for extra inspection or testing of the work for compliance with requirements of this Contract;

(D) The Owner shall review the Contractor's Payment Requests and shall approve in writing those amounts which, in the opinion of the Owner, are properly owing to the Contractor as provided in this Contract;

(E) The Owner shall, upon written request from the Contractor, perform those inspections required in Paragraph 7 hereinabove;

13.

CLAIMS BY THE CONTRACTOR

Claims by the Contractor against the Owner are subject to the following terms and conditions:

(A) All Contractor claims against the Owner shall be initiated by a written claim submitted to the Owner. Such claim shall be received by the Owner no later than seven (7) calendar days after the event, or the first appearance of the circumstances, causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim;

(B) The Contractor and the Owner shall continue their performance hereunder regardless of the existence of any claims submitted by the Contractor;

(C) In the event the Contractor discovers previously concealed and unknown site conditions which are materially at variance from those typically and ordinarily encountered in the general geographical location of the Project, the Contract Price shall be modified, either upward or downward, upon the written claim made by either party within seven (7) calendar days after the first appearance to such party of the circumstances. As a condition precedent to the Owner having any liability to the Contractor due to concealed and unknown conditions, the Contractor must give the Owner written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure by the Contractor to give the written notice and make the claim as provided by this Subparagraph 13(C) shall constitute a waiver by the Contractor of any rights arising out of or relating to such concealed and unknown condition. As there may be a number of factors which may delay the performance of the contract, the measured mile method shall not be used to calculate additional compensation pursuant to this paragraph. All such claims shall be based on actual documented costs;

(D) In the event the Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefor, the Contractor shall strictly comply with the requirements of Subparagraph 13(A) above and such claim shall be made by the Contractor before proceeding to execute any additional or changed work. Failure of the condition precedent to occur shall constitute a waiver by the Contractor of any claim for additional compensation;

(E) In connection with any claim by the Contractor against the Owner for compensation in excess of the Contract Price, any liability of the Owner for the Contractor's cost shall be strictly limited to direct cost incurred by the Contractor and shall in no event include indirect cost or consequential damages of the Contractor. The Owner shall not be liable to the Contractor for claims of third-parties including subcontractors, unless and until liability of the Contractor has been established therefor in a court of competent jurisdiction;

(F) In the event the Contractor should be delayed in performing any task which at the time of the delay is then critical, or which during the delay becomes critical, as the sole result of any act or omission by the Owner or someone acting in the Owner's behalf, or by Owner-authorized Change Orders, unusually bad weather not

reasonably anticipatable, fire or other Acts of God, the date for achieving Substantial Completion, or, as applicable, final completion, shall be appropriately adjusted by the Owner upon the written claim of the Contractor to the Owner. Contractor's sole remedy against Owner in the event of such delay of a critical task shall be the right to seek an extension of time. Under no circumstances shall any delay give rise to any right to damages or additional compensation from the Owner. A task is critical within the meaning of this Subparagraph 13(F) if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. Any claim for an extension of time by the Contractor shall strictly comply with the requirements of Subparagraph 13(A) above. If the Contractor fails to make such claim as required in this Subparagraph 13(F), any claim for an extension of time shall be waived.

14.

SUBCONTRACTORS

Upon execution of this Contract, the Contractor shall identify to the Owner, in writing, those parties intended as subcontractors on the Project. The Owner shall, in writing, state any objections the Owner may have to one or more of such subcontractors. The Contractor shall not enter into a subcontract with an intended subcontractor with reference to whom the Owner objects. All subcontracts shall afford the Contractor rights against the subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights of Contract termination as set forth hereinbelow.

15.

CHANGE ORDERS

One or more changes to the work within the general scope of this Contract may be ordered by Change Order. The Contractor shall proceed with any such changes, and same shall be accomplished in strict accordance with the following terms and conditions:

(A) Change Order shall mean a written order to the Contractor executed by the Owner after execution of this Contract, directing a change in the work and may include a change in the Contract Price or the time for the Contractor's performance, or any combination thereof;

(B) Any change in the Contract Price resulting from a Change Order shall be determined as follows:

(1) By mutual agreement between the Owner and the Contractor as evidenced by (a) the change in the Contract Price being set forth in the Change Order, (b) such change in the Contract Price, together with any conditions or requirements relating thereto, being initialed by both parties and (c) the Contractor's execution of the Change Order, or,

(2) If no mutual agreement occurs between the Owner and the Contractor, the change in the Contract Price, if any, shall be derived by determining the reasonable actual costs incurred or savings achieved, resulting from revisions in the work. Such reasonable actual costs or savings shall include a component for direct jobsite overhead and profit but shall not include home-office overhead or other indirect costs or components. Any such costs or savings shall be documented in the format and with such content and detail as the Owner requires.

(C) The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the work, this Contract as thus amended, the Contract Price and the time for performance by the Contractor. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the work included within or affected by the executed Change Order;

(D) The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Owner, the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to

the Owner that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

(E) The owner's representative in this agreement is the City Manager. No change orders or other modifications to this agreement shall be effective unless in writing and signed by the City Manager.

16.

DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK

(A) In the event that the Contractor covers, conceals or obscures its work in violation of this Contract or in violation of a directive from the Owner, such work shall be uncovered and displayed for the Owner's inspection upon request, and shall be reworked at no cost in time or money to the Owner;

(B) If any of the work is covered, concealed or obscured in a manner not covered by Subparagraph 16(A) above, it shall, if directed by the Owner be uncovered and displayed for the Owner's inspection. If the uncovered work conforms strictly with this Contract, the costs incurred by the Contractor to uncover and subsequently, replace such work shall be borne by the Owner. Otherwise, such costs shall be borne by the Contractor;

(C) The Contractor shall, at no cost in time or money to the Owner, correct work rejected by the Owner as defective or failing to conform to this Contract. Additionally, the Contractor shall reimburse the Owner for all testing, inspections and other expenses incurred as a result thereof;

(D) In addition to its warranty obligations set forth elsewhere herein, the Contractor shall be specifically obligated to correct any and all defective or nonconforming work for a period of twelve (12) months following final completion upon written direction from the Owner.

(E) The Owner may, but shall in no event be required to, choose to accept defective or nonconforming work. In such event, the Contract Price shall be reduced by the greater of (1) the reasonable costs of removing and correcting the defective or nonconforming work, and (2) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for the acceptance of defective or nonconforming work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming work.

17.

TERMINATION BY THE CONTRACTOR

If the Owner repeatedly fails to perform its material obligations to the Contractor for a period of thirty (30) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 19(A) hereunder.

18.

OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

(A) The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to ten (10)

calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply with same;

(B) In the event the Owner directs a suspension of performance under this Paragraph 18, through no fault of the Contractor, the Owner shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:

(1) demobilization and remobilization, including such costs paid to subcontractors;

(2) preserving and protecting work in place;

(3) storage of materials or equipment purchased for the Project, including insurance thereon;

(4) performing in a later, or during a longer, time frame than that contemplated by this Contract.

19.

TERMINATION BY THE OWNER

The Owner may terminate this Contract in accordance with the following terms and conditions:

(A) The Owner may, for any reason whatsoever, terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective. The Contractor shall incur no further obligations in connection with the work and the Contractor shall stop work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under termination orders or subcontracts to the Owner or its designee. The Contractor shall transfer title and deliver to the Owner such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has. When terminated for convenience, the Contractor shall be compensated as follows:

(1) The Contractor shall submit a termination claim to the Owner specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Owner. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Owner shall pay the Contractor, an amount derived in accordance with Subparagraph (3) below;

(2) The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder;

(3) Absent agreement to the amount due to the Contractor, the Owner shall pay the Contractor the following amounts:

(a) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for direct jobsite overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

(c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 19(A) of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 19(A) shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

(B) If the Contractor does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then the Owner, in addition to any other rights it may have against the Contractor or others, may terminate the performance of the Contractor and assume possession of the Project site and of all materials and equipment at the site and may complete the work. In such case, the Contractor shall not be paid further until the work is complete. After final completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the Owner of completing the work, including all costs and expenses of every nature incurred, has been deducted by the Owner, such remainder shall belong to the Contractor. Otherwise, the Contractor shall pay and make whole the Owner for such cost. This obligation for payment shall survive the termination of the Contract. In the event the employment of the Contractor is terminated by the Owner for cause pursuant to this Subparagraph 19(B) and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 19(A) and the provisions of Subparagraph 19(A) shall apply.

20.

INSURANCE

The Contractor shall have and maintain insurance in accordance with the requirements of Exhibit "A" attached hereto and incorporated herein by reference.

21.

PAYMENT AND PERFORMANCE BOND

The Contractor shall furnish a payment and performance bond to the Owner. The bond shall set forth a penal sum in an amount not less than the Contract Price. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of the payment and performance bond shall be deemed increased by like amount. The payment and performance bond furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably acceptable to the Owner. The form of the payment and performance bond shall be approved by the City Attorney prior to recording.

22.

PROJECT RECORDS

All documents relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Contractor, or any subcontractor of the Contractor, shall be made available to the Owner for inspection and copying upon written request by the Owner. Furthermore, said documents shall be made available, upon request by the Owner, to any state, federal or other regulatory authority and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. Said records expressly include those documents reflecting the cost of construction to the Contractor. The Contractor shall maintain and protect these documents for no less than five (5) years after final completion of the Project, or for any longer period of time as may be required by law or good construction practice.

Contractor shall comply with the requirements of Florida's Public Records law. In accordance with Section 119.0701, Florida Statutes, Contractor shall (a) keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the service under the contract; (b) provide the public with access to public records on the same terms and conditions that the Owner would provide the records and at a cost that does not exceed the cost provided under Florida's Public Records law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to the Owner all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Owner in a format that is compatible with the information technology system of the Owner.

23.

APPLICABLE LAW

The law applicable to this Contract is hereby agreed to be the law of the State of Florida.

24.

SUCCESSORS AND ASSIGNS

Each party binds itself, its successors, assigns, executors, administrators or other representatives to the other party hereto and to successors, assigns, executors, administrators or other representatives of such other party in connection with all terms and conditions of this Contract. The Contractor shall not assign this Contract without prior written consent of the Owner.

25.

NOTICES

All notices required or permitted hereunder shall be in writing and shall be deemed to have been duly delivered hereunder if mailed by first class certified mail, postage prepaid, to the respective parties at the respective addresses:

Owner:

City of Plant City
c/o Michael A. Schenk
City Engineer
302 West Reynolds Street
Plant City, FL 33563

With a copy to:

Kenneth W. Buchman, Esq.
City Attorney
City of Plant City
302 W. Reynolds Street
Plant City, FL 33563

Contractor:

_____
_____
_____
_____

Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, in the manner provided above, a notice of such change.

OWNER

_____ [Seal]
(*TYPED NAME)*

By:_____
(*SIGNATURE)*

_____
(PRINTED NAME, TITLE & ADDRESS)

_____
OF EXECUTION)

CONTRACTOR

_____[Seal]
(TYPED NAME)

By:_____
(SIGNATURE)

_____
(PRINTED NAME, TITLE & ADDRESS)

_____ *(DATE*
(DATE OF EXECUTION)

ATTEST:

_____
KERRI J. MILLER
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

BY: _____
KENNETH W. BUCHMAN
CITY ATTORNEY

EXHIBIT "A"

Contractor's and Subcontractor's Insurance:

1. Compensation Insurance: The Contractor shall procure and maintain during the life of this contract Workmen's Compensation Insurance for all of his employees to be engaged in work on the project under this contract, and in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's Compensation Insurance for all the labor's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate insurance for the protection of such of his employees not otherwise protected. The Contractor shall indemnify and hold the City harmless for any claim made by the Subcontractor for workmen's compensation.

2. Contractor's Comprehensive Liability and Property Damage Insurance: The Contractor shall procure and shall maintain during the life of this contract Contractor's Comprehensive Liability Insurance in an amount satisfactory to the Owner, but not less than $300,000.00 for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than $1,000,000.00, on account of one accident, and the Contractor's Property Damage Insurance in an amount not less than $1,000,000.00. This insurance shall be maintained with an insurance company or companies licensed to do business in the state in which the Contractor shall perform his contractual services. Owner shall be named as additional insured on the policy.

3. Subcontractor's Comprehensive Liability and Property Damage Insurance: The Contractor shall require each of his Subcontractor's to procure and maintain during the life of his contract Subcontractor's Comprehensive Liability and Property Damage Insurance coverage in amounts satisfactory to the Contractor for his own protection, with an insurance company or companies licensed to do business in the state in which the Subcontractor shall perform his contractual services.

5. Scope of Insurance and Special Hazards: The insurance required shall provide adequate protection for Contractor and his Subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by the insured, and also against any of special hazards which may be encountered in the performance of this contract.

6. Proof of Carriage of Insurance: The Contractor shall furnish the Owner with satisfactory proof of carriage of the insurance required, but the failure to provide adequate insurance shall not relieve the Contractor's responsibility to protect the Owner wholly from all such claims and damages.

The certificate of insurance shall include as a certificate holder:

City of Plant City
Attn: City Manager
302 West Reynolds Street
Plant City, FL 33563