

CITY COMMISSION OF THE CITY OF PAHOKEE

WORKSHOP

Tuesday, April 28, 2020 6:00 p.m.

360 East Main Street, Pahokee, Florida

This Workshop of the City Commission of the City of Pahokee is being held to discuss the April 28, 2020 Agenda.

A. INVOCATION AND PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

D. DISCUSSION, COMMENTS, CONCERNS

E. ADJOURN

NOTICE

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

SUBJECT TO CHANGE



AGENDA

CITY COMMISSION OF THE CITY OF PAHOKEE
REGULAR COMMISSION MEETING
TUESDAY, April 28, 2020 6:30 P.M.

- A. INVOCATION AND PLEDGE OF ALLEGIANCE
- B. ROLL CALL
- C. ADDITIONS, DELETIONS, AND APPROVAL OF AGENDA ITEMS
- D. CITIZEN COMMENTS/PUBLIC SERVICE ANNOUNCEMENTS – ALL ITEMS ON AGENDA (3 MINUTES)
- E. APPROVAL OF MINUTES
 - 1. **March 24, 2020 – Workshop Minutes**
 - 2. **March 24, 2020 – Regularly Scheduled Commission Meeting Minutes**
- F. CONSENT AGENDA
- G. ORDINANCE(S)
- H. RESOLUTION(S)

Resolution 2020 – 12 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA RATIFYING CHANGE ORDER NUMBER 1, EXECUTED BY THE CITY MANAGER AND RELATING TO THE CONTRACT FOR THE DEMOLITION OF OLD CITY HALL DATED FEBRUARY 25, 2020 BETWEEN MACK AND SON, LLC AND THE CITY OF PAHOKEE, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE

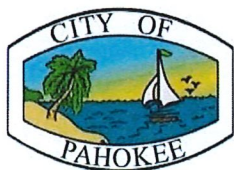
Resolution 2020 – 13 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING AN AGREEMENT BETWEEN MDO ENGINEERING, INC. AND THE CITY OF PAHOKEE FOR PROFESSIONAL ENGINEERING AND CONSULTING SERVICES RELATED TO THE OLD CITY HALL DEMOLITION PROJECT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

- I. PUBLIC HEARINGS
- J. PROCLAMATION(S)
- K. PRESENTATION(S)
- L. REPORT OF THE MAYOR
- M. REPORT OF THE CITY MANAGER
- N. REPORT OF THE CITY ATTORNEY
- O. OLD BUSINESS
- P. NEW BUSINESS
- Q. FUTURE AGENDA ITEMS OF COMMISSIONERS, IF ANY
- R. FOR THE GOOD OF THE ORDER (COMMUNITY EVENTS, FEEL GOOD ANNOUNCEMENTS)
- S. ADJOURN

NOTICE

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

SUBJECT TO CHANGE



**CITY COMMISSION OF THE CITY OF PAHOKEE
COMMISSION WORKSHOP MINUTES
Tuesday, March 24, 2020**

Pursuant to due notice the Commission Workshop was held by teleconference, Palm Beach County, Florida on March 24, 2020.

The meeting was called to order by Mayor Babb at 6:18 p.m.

Official attendance was recorded as follows:

| | | |
|--------------------------|--|---------|
| <u>Roll Call:</u> | Mayor Keith W. Babb, Jr. | Absent |
| | Commissioner Regina Bohlen | Present |
| | Commissioner Benny L. Everett, III | Present |
| | Commissioner Felisia C. Hill | Absent |
| | Vice Mayor Clara M. Murvin | Present |
| | Chandler Williamson, City Manager | Present |
| | Burnadette Norris-Weeks, City Attorney | Present |
| | Nohemi Polanco, Interim City Clerk | Present |

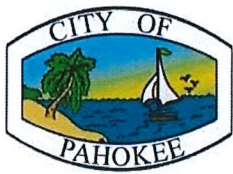
Topic

1. March 24, 2020 Agenda – Discussion ensued

There being no further business to discuss, Mayor Babb adjourned the meeting at 6:30 p.m.

Keith W. Babb, Jr., Mayor

ATTEST: Nohemi Polanco, Interim City Clerk



**CITY COMMISSION OF THE CITY OF PAHOKEE
REGULARLY SCHEDULED COMMISSION MEETING MINUTES
Tuesday, March 24, 2020**

Pursuant to due notice, the Regularly Scheduled Commission Meeting was held by teleconference, Palm Beach County, Florida on March 24, 2020.

The meeting was called to order by Mayor Babb at 6:30 p.m.

Official attendance was recorded as follows:

| | | |
|--------------------------|--|---------|
| <u>Roll Call:</u> | Mayor Keith W. Babb, Jr. | Present |
| | Commissioner Regina Bohlen | Present |
| | Commissioner Benny L. Everett, III | Present |
| | Commissioner Felisia C. Hill | Absent |
| | Vice Mayor Clara M. Murvin | Present |
| | Chandler Williamson, City Manager | Present |
| | Burnadette Norris-Weeks, City Attorney | Present |
| | Nohemi Polanco, Interim City Clerk | Present |

Additions, Deletions, and Approval of Agenda Items:

Declaration of Emergency by Executive Order(s) due to COVID-19.

Approval of Agenda with addition

Motion by Vice Mayor Murvin. Seconded by Commissioner Everett.

Motion carried unanimously (4-0).

Citizen Comments/Public Service Announcements – All items on Agenda (3 minutes):

No citizen comments available

Approval of Minutes:

1. February 25, 2020 – Workshop Minutes
2. February 25, 2020 – Regularly Scheduled Commission Meeting Minutes

Approval of February 25, 2020 Workshop Minutes

Motion by Vice Mayor Murvin. Seconded by Commissioner Everett.

Motion carried unanimously (4-0).

Approval of February 25, 2020 Regularly Scheduled Commission Meeting Minutes

Motion by Vice Mayor Murvin. Seconded by Commissioner Everett.

Motion carried unanimously (4-0).

Consent Agenda:

Resolution(s):

1. Resolution 2020 – 11 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, RATIFYING A DECLARATION BY THE MAYOR AS TO THE STATE OF EMERGENCY DUE TO NOVEL CORONAVIRUS DISEASE 2019 (COVID-19); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Williamson read Resolution 2020 - 11 into the record.

Approval of Resolution 2020 - 11

Motion by Vice Mayor Murvin. Seconded by Commissioner Everett.

Motion carried four (4-0).

2. Resolution 2020 – 09 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING THE USE OF FACILITY AGREEMENT FOR GOVERNMENT ENTITIES BY AND BETWEEN THE CITY OF PAHOKEE, FLORIDA AND PALM BEACH COUNTY ATTACHED HERETO AS EXHIBIT “A”; AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE SAME; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Mrs. Norris-Weeks read Resolution 2020 - 09 into the record.

Approval of Resolution 2020 - 09

Motion by Commissioner Everett. Seconded by Vice Mayor Murvin.

Motion carried unanimously (4-0).

3. Resolution 2020 – 10 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING BUDGET AMENDMENT NO. 1 IN THE AMOUNT OF \$703,499 FOR FISCAL YEAR 2019 – 2020, ATTACHED HERETO AS COMPOSITE EXHIBIT “A”; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Williamson read Resolution 2020 - 10 into the record.

Approval of Resolution 2020 - 10

Motion by Commissioner Everett. Seconded by Vice Mayor Murvin.

Motion carried unanimously (4-0).

Public Hearings: *(none)*

Proclamation(s): *(none)*

Presentation(s): *(none)*

Report of the Mayor:

Mayor Babb discussed the following:

- Corona virus update
- Provided hotline for residents to call for COVID-19
- Encouraged residents to respond to 2020 Census
- Reminded everyone of social distance per CDC instructions and to stay safe

Report of the City Manager:

Mr. Williamson discussed the following:

- Encouraged residents to access media for CDC updates
- Gym Renovations update
- Shive Island – Street resurfacing project
- Phase 4 on additional Streets project update
- Old City Hall demolition project update
- Other projects

Report of the City Attorney: *(none)*

Old Business: *(none)*

New Business: *(none)*

Future Agenda Items of Commissioners, if any:

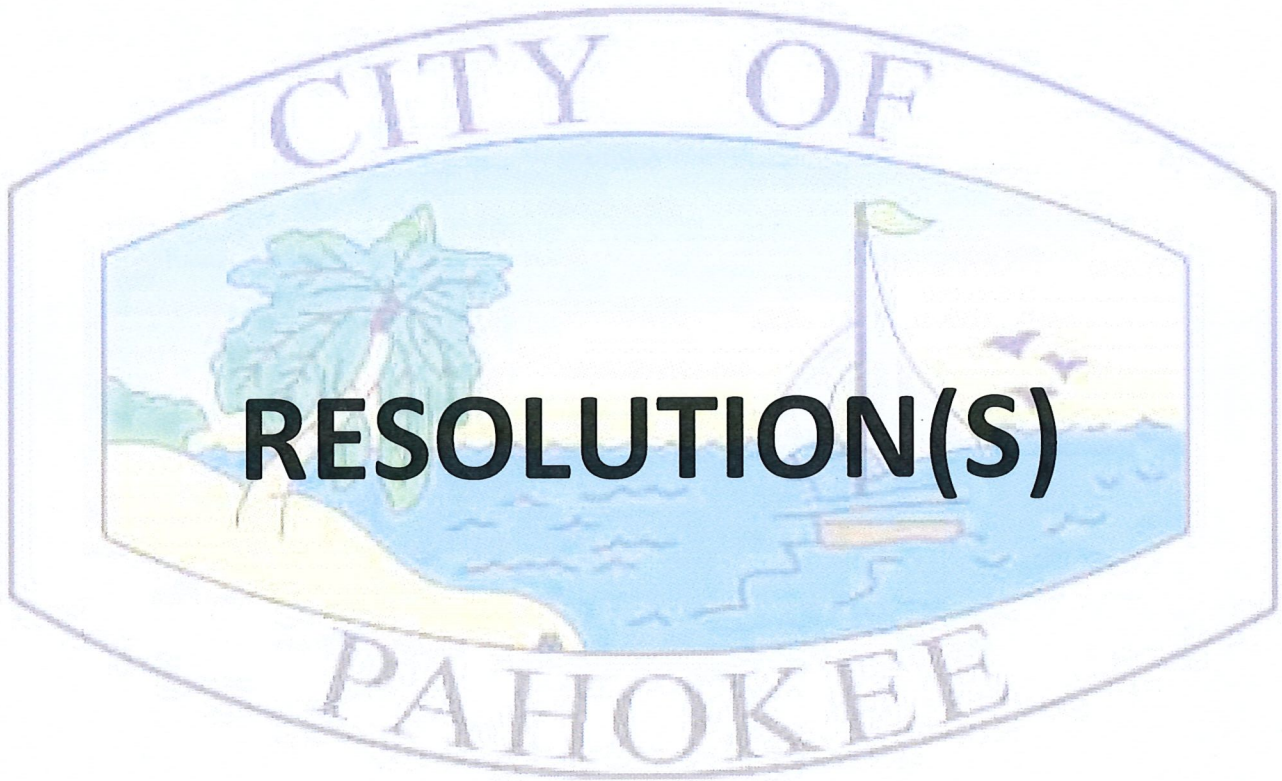
For the Good of the Order (Community Events, Feel Good Announcements):

Commissioner Bohlen discussed the exit interview for former City Clerk. Discussion ensued.

Due to communication interference, Mayor Babb adjourned the meeting at 7:20 p.m.

Keith W. Babb, Jr., Mayor

ATTEST: Nohemi Polanco, Interim City Clerk



RESOLUTION 2020-12

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA RATIFYING CHANGE ORDER NUMBER 1, EXECUTED BY THE CITY MANAGER AND RELATING TO THE CONTRACT FOR THE DEMOLITION OF OLD CITY HALL DATED FEBRUARY 25, 2020 BETWEEN MACK AND SON, LLC AND THE CITY OF PAHOKEE, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Pahokee, Florida (the "City") entered into an agreement dated February 25, 2020 with Mack and Son LLC for the demolition of Old City Hall for a contract price of \$262,272.00 (the "Agreement"); and

WHEREAS, Mack and Son, LLC subsequently submitted a proposal for a Change Order #1, to the City Manager, a copy of which is attached hereto as Exhibit "A", which increases the contract price by Fifty Thousand Dollars (\$50,000.00) for asbestos debris removal for the Old City Hall demolition project (the "Change Order"); and

WHEREAS, the City Manager executed the attached Change Order, Exhibit "A" on behalf of the City of Pahokee; and

WHEREAS, the City Commission of the City of Pahokee, Florida has determined that execution of the Change Order is in the best interests of the City and its residents and hereby ratifies the Change Order.

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA AS FOLLOWS:

Section 1. Adoption of Representations. The foregoing whereas clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. Approval of Change Order. The City Commission of the City of Pahokee, Florida hereby ratifies, confirms and approves the Change Order for Asbestos Debris Removal for the Old City Hall Demolition Project, attached hereto as Exhibit "A".

Section 3. Authorization of City Manager. The City Commission of the City of Pahokee hereby authorizes the City Manager to remit payment for the Change Order.

Section 4. Effective Date. This Resolution shall be effective immediately upon its passage and adoption.

PASSED and **ADOPTED** this ____ day of April 2020

Keith W. Babb, Jr., Mayor

ATTEST:

Interim City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burnadette Norris-Weeks, P.A.
City Attorney

Moved by: _____

Seconded by: _____

VOTE:

| | | |
|----------------------|-------------|------------|
| Commissioner Bohlen | _____ (Yes) | _____ (No) |
| Commissioner Everett | _____ (Yes) | _____ (No) |
| Commissioner Hill | _____ (Yes) | _____ (No) |
| Vice-Mayor Murvin | _____ (Yes) | _____ (No) |
| Mayor Babb | _____ (Yes) | _____ (No) |

Exhibit "A"

Mack and Sons LLC Change Order #1

(For Asbestos Debris Removal for the Old City Hall Demolition Project)



Community & Economic Development Department

CHANGE ORDER # 1

Project: Old City Hall Building Complex Demo Project No: 1
Date of Issuance: 9 April 2020 Effective Date: 10 April 2020
Owner: City of Pahokee
Project Engineer: Marcos Montes de Oca, MDO Engineering, Inc.
Consultant/Contractor: Mack & Son, LLC

Purpose of Change Order: Obtaining a licensed Abatement Supervisor and the Removal and hauling of asbestos in the Old City Hall Building Complex set for demolition.

Attachment:

If a claim is made that the above change(s) have affected Contract Price or Contract Times any claim for a Change Order based thereon will involve one or more of the following methods of determining the effect of the change(s).

Method of determining the change is:
Change Price:

- Unit Price
- Lump Sum
- Other _____

-estimate based on upcoming asbestos work to be performed, final cost should be attached before final payment and approval recommendation

Estimated increase (decrease) in Contract Price:
\$50,000.00

If the change involves an increase, the estimated Amount is not to be executed without further authorization.

RECOMMENDED:

Marcos Montes De Oca, P.E.
ENGINEER

BY: _____
(Authorized Signature)

Method of determining the change is:
Change Times:

- Contractor's records
- Engineer's records
- Other _____

Estimated increase (decrease) in Contract Times:
Substantial Completion: 30 days*
Ready for final payment: _____ days
**estimated up to based on days for asbestos removal*

If the change involves an increase, the estimated times are not to be exceeded without further authorization.

AUTHORIZED:

Chandler F. Williamson, City Manager
OWNER

BY: _____
(Authorized Signature)



Asbestos Consulting and On-site Supervision Services Proposal

PROJECT:

**City of Pahokee - Old Town Hall / Police
Station / Jail Demolitions**

161 North Lake Avenue

Pahokee, Palm Beach County, Florida 33476

TO:

Mack & Son, LLC

1461 North Mangonia Drive

West Palm Beach, Florida 33401

FROM:

Preemptive Strike Environmental Inspections, LLC

Palm Beach County, Florida

Standing Ready to Serve

Website: www.prestrikenow.com

Email: inspector@prestrikenow.com

Preemptive SEI Project No.: ASB200406

Proposal Date: April 6, 2020



Proposal Date: April 6, 2020

Mack & Son, LLC
c/o Mr. Sylvester McKinon
1461 North Mangonia Drive, West Palm Beach, Florida 33401
Office: (334) 983-9979
Email: mackandson@comcast.net

Re: Asbestos Consulting and On-site Supervision Services Proposal
City of Pahokee - Old Town Hall / Police Station / Jail Demolitions
161 North Lake Avenue, Pahokee, Florida
Preemptive SEI Project No.: ASB200406

Dear Mr. McKinon;

Preemptive Strike Environmental Inspections, LLC (Preemptive SEI) appreciates this opportunity to provide you with great service. We strive to place the industries best professionals at your use. We work hard at being ready to play our role in your success.

PROJECT DESCRIPTION

It is our understanding that the following City of Pahokee building structures (herein referred to as "subject buildings") are scheduled to be demolished:

- 1. Old Town Hall – One (1) two-story structure;
2. Police Station – One (1) two-story structure;
3. Jail – One (1) single-story structure; and
4. Auxillary Buildings – Two (2) single-story structures.

SCOPE OF SERVICES

As requested, asbestos consultation and a State of Florida Certified Asbestos supervisor will be provided to monitor on-site demolition activities concerning the demolition of asbestos containing materials within the subject buildings.

SERVICES FEE SCHEDULE

Table with 1 row: The scope of services detailed above will be provided for the following fee: Asbestos Consulting and On-site Supervision\$700.00 (*Flat Rate / Day)
*The flat rate includes travel and up to 10 hours of onsite asbestos supervision per day Monday through Saturday.

CONDITIONS AND QUALIFICATIONS

Our fee presented above is based on the following client provided:

- It is not anticipated that asbestos material sampling or asbestos air sampling will be collected and analyzed as a part of this project. Should the need for any of these services arise, a separate proposal will be provided to account for additional costs.

AUTHORIZATION

To initiate services, please complete, sign, and return the included **Proposal Acceptance Agreement form**. The Terms and Conditions are part of this agreement. The signed proposal acceptance agreement form must be received by Preemptive SEI prior to mobilization onsite even if scheduled.

Respectfully Submitted,



Toi A. Akien – Senior Project Manager

State of Florida Licensed Asbestos Consultant (LAC)

Florida Licensed Mold Assessor

Council-Certified Indoor Environmental Consultant (CIEC)

Certified Safety Professional (CSP)

EPA Certified Lead Based Paint Inspector / Risk Assessor

Attachment "A": Proposal Acceptance Agreement

Attachment "B": Terms & Conditions



PROPOSAL ACCEPTANCE AGREEMENT

| | | |
|---|---|--|
| Description of Services: Asbestos Consulting and On-site Supervision Services Proposal | | |
| Project Name: City of Pahokee - Old Town Hall / Police Station / Jail Demolitions | Project Location: 161 North Lake Avenue Pahokee, Florida | Preemptive SEI Proposal No.: ASB200406 Proposal Date: April 6, 2020 |

APPROVAL & PAYMENT OF CHARGES:

The entity filled-in below will be responsible for service charges for the service option selected:

Client / Attention: _____

Address: _____

Telephone: _____ Fax: _____

Email: _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME & TITLE: _____

DATE ACCEPTED: _____ (See below for service line acceptance)

| | |
|---|------------------------------------|
| SERVICES: | |
| Asbestos Consulting and On-site Supervision | \$700.00 (*Flat Rate / Day) |
| *The flat rate includes asbestos consultation, travel, and up to 10 hours of onsite asbestos supervision per day Monday through Saturday. | |

PAYMENT TERMS: NET 30

Preemptive Strike Environmental Inspections, LLC (Preemptive SEI) reserves the right to withhold all reports until such time as we receive a signed Proposal Acceptance Agreement or other written authorization referencing this project in its entirety. This Agreement, the proposal and terms and conditions constitute the entire agreement between the client and Preemptive SEI, and supersede all prior written or oral understanding. Please note that pricing is valid for a period of ninety (90) days from proposal date.

The above signed, having full legal authority to bind the Client identified in the foregoing Proposal Agreement, has read the foregoing Proposal Agreement and hereby agrees to all of the terms and conditions contained in Preemptive SEI's Standard Terms and Conditions attached hereto as Exhibit "A" which are incorporated herein by reference as a fundamental and material part of the Proposal Agreement. The Client agrees and understands that Preemptive SEI's Standard Terms and Conditions have been established in a large measure to allocate certain risks between Client and Preemptive SEI, and Preemptive SEI will not initiate services without Client's execution of agreement to the terms of the Proposal Agreement and the Standard Terms and Conditions and other terms and conditions set forth in this Agreement.

Standard Terms and Conditions

Services to be Provided. Preemptive Strike Environmental Inspections, LLC (PreStrike-EI), an independent consultant, agrees to provide Client for its sole benefit and exclusive use consulting services set forth in our Proposal.

Definitions. When used herein, the terms "we", "us", or "our" refer to Consultant and the terms "you", "your", "he", "his", "it" and "its" refer to Client.

Right of Entry and Right to Proceed. Client grants a right of entry from time to time to consultant, its agents, staff, consultants, and contractors or subcontractors, for the purpose of performing and with the right to perform all acts, studies and research including without limitation the making of tests and evaluations, pursuant to the agreed services. Client represents that he possesses all necessary permits and licenses required for the continuation of its activities at the site.

Billing and Payment. Unless otherwise indicated in our Proposal, our billings will be based on actual accrued time, test costs, and expenses. Client agrees to pay invoice upon receipt. Should payment not be received within 30 days, the amount due shall bear a service charge of 1-1/2 percent per month or 18 percent per year, and the cost of collection including reasonable attorney's fees, if so collected by law through an attorney, in lieu of the statutory post judgment rate provided by section 55.03, Florida Statutes, as amended, the interest rate of 1-1/2 percent per month or 18 percent per year shall also apply post-judgment, as permitted by the aforementioned statute. If 1-1/2 percent per month exceeds the maximum allowed by law, the charge will automatically be reduced to the maximum legally allowed. If Client has any objections to any invoice or part thereof submitted by Consultant, he shall so advise us in writing giving his reasons within 14 days of receipt of such invoice. Client agrees it will not exercise any right of set-off it has under this Agreement, any continuing agreement with Consultant, or any right of set-off provided by law. No deduction shall be made from Consultant's invoice on account of penalty, liquidated damages, or other sums withheld from payments to contractors or others. Payment of the invoice shall constitute final approval as to all aspects of the work performed to date as well as the necessity thereof. If the project is terminated in whole or in part then we shall be paid for services performed prior to our receiving or issuing written notice of such termination. In addition to our reimbursable expenses and any shut down costs incurred. Shut down costs may, at our sole discretion, include completion of analysis and records necessary to document our files and protect our professional reputation.

Damage at Site. We will not be liable for any property damage or bodily injury arising from damage to or interference with structures including without limitation, pipes, tanks, telephone cables, etc., which are not called to our attention in writing and correctly shown on the plans furnished by client. In connection with work performed under this Agreement, Client recognizes that the use of test equipment may unavoidably affect, alter, or damage buildings, structures and equipment in, at, or upon the site. Client accepts the fact that this is inherent to our work and will not hold us liable or responsible for any such affect, alteration or damage.

Standard of Care and Warranty. Professional services provided by us will be performed, findings obtained, and recommendations prepared in accordance with generally accepted architecture and engineering principles and practices. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED.

Public Liability. Consultant maintains workers' compensation and employer's liability insurance for our employees as required by state laws. In addition, we maintain comprehensive general liability and auto liability insurance.

A Certificate of insurance can be supplied evidencing such coverage. We will not be liable or responsible for any loss, damage or liability beyond the amounts, limits, coverage, or conditions of such insurance specified above.

Indemnity. Client and PreStrike-EI agree to hold harmless and indemnify the other, their respective agents, their respective employees, and their respective subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including the cost of defense, investigation, settlement, and reasonable attorneys fees) to the proportional extent such losses, liabilities and costs and expenses arise out of the negligent acts, errors or omissions or willful misconduct by either party respectively or from any violation of any and all applicable statutes, ordinances, rules and regulations of any government or of any agency by either party respectively. Client shall, in the event of liability arising out of their joint negligence or willful misconduct, indemnify and save each other harmless in proportion to their relative degree of fault.

Limitation of Liability: TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND FOR ADDITIONAL CONSIDERATION OF \$10, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE CLIENT AGREES THAT PreStrike-

EI'S LIABILITY, AND THAT OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONTRACTORS, TO CLIENT, ANY SECONDARY CLIENTS OR ANY THIRD PARTY DUE TO PreStrike-EI'S BREACH OF CONTRACT OR NEGLIGENT PROFESSIONAL ACTS, ERRORS OR OMISSIONS WILL BE LIMITED TO AN AGGREGATE OF \$50,000 OR THE TOTAL FEES PAID BY CLIENT TO PreStrike-EI UNDER THE PROPOSAL, WHICHEVER IS LESS. NEITHER PARTY SHALL BE RESPONSIBLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES (INCLUDING LOSS OF USE, INCOME, PROFITS, FINANCING OR REPUTATION) ARISING OUT OF OR RELATING TO THIS AGREEMENT, PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

Sampling and Testing Location. The fees included in our Proposal do not include costs associated with surveying of the site and/or facility to determine accurate horizontal and vertical locations of tests. If surveying is required cost of surveying will be paid by client. Field tests or sample locations described in our report or shown on sketches are based on specific information furnished by others or estimates made in the field by our personnel. Such dimensions or elevations are approximate.

Client Disclosure: Client agrees to advise PreStrike-EI of any hazardous substances or any condition on or near the site that presents a potential danger to human health, the environment, or PreStrike-EI's equipment. PreStrike-EI does not assume control or responsibility for the site or the persons in charge of the site, or undertake responsibility for reporting to any federal, state or local agencies any conditions at the site that may present a potential danger to public health, safety or the environment. Client agrees to notify the appropriate federal, state or local agencies as required by law, or otherwise make timely disclosure of any information that may be necessary to prevent damage to human health, safety or the environment. Client acknowledges that PreStrike-EI may be required to make such disclosures if Client fails to do so and agrees to hold PreStrike-EI harmless from any such disclosure.

Scheduling of Services: The services set forth in PreStrike-EI's proposal will be accomplished in a timely and professional manner by PreStrike-EI personnel. If PreStrike-EI is required to delay commencement of the services or if, upon embarking upon its services, PreStrike-EI is required to stop or interrupt the progress of its services as a result of changes in the scope of work requested by the Client, to fulfill the requirements of third parties, or for other causes beyond the direct reasonable control of PreStrike-EI, additional charges will be applicable and payable by Client. Should completion of any portion of services be delayed for causes beyond the reasonable control of, or without the fault or negligence of, PreStrike-EI, the time of performance shall be extended for a period equal to the delay.

Sample and Waste Disposal: Samples are generally consumed and altered during testing and are disposed of immediately upon completion of tests. If Client wishes PreStrike-EI to retain any test samples, then, at Client's written request, PreStrike-EI will use its best efforts to retain preservable samples or the residue therefrom but only for a mutually acceptable time and for an additional charge. PreStrike-EI reserves the right to refuse storage of any samples. Client agrees that PreStrike-EI is not responsible or liable for loss of samples retained in storage. If Client requests PreStrike-EI to containerize drilling water and/or fluids produced by PreStrike-EI's activity ("waste"), Client will provide a secure storage location at or near the project site to prevent tampering with the waste. Non-hazardous waste will be disposed of by PreStrike-EI for an additional charge at an appropriately licensed facility.

In the event that samples or waste contain asbestos, toxic or hazardous substances or constituents, ("contaminants"), PreStrike-EI will either: 1) return the samples or waste to Client for proper disposal or 2) using a manifest signed by Client as generator for an additional fee, have the samples or waste transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transporting and disposal of samples of waste. Client recognizes and agrees that PreStrike-EI is acting as a bailee and at no time assumes title, constructive or expressed, to such samples or waste.

Unforeseen Occurrences. If, during the performance of services, any unforeseen hazardous substances or constituents or other unforeseen conditions or occurrences are encountered which, in our sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the recommended scope of services, we will promptly notify Client thereof. Subsequent to that notification, Consultant may:

If practicable, in our sole judgment, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal;

(b) Agree with Client to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated hereby; or

(c) Terminate the services effective on the date specified by us in writing.

Documents. Client will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information deemed necessary by us for proper performance of our services. We may rely upon Client-provided documents in performing the services required under this Agreement; however, we assume no responsibility or liability for their accuracy. Client-provided documents will remain property of Client. All documents, including but not limited to, drawings, specifications, reports, field notes, laboratory test data, calculations and estimates prepared by us as instruments of service pursuant to the Agreement, shall be our sole property. Client agrees that all documents of any nature furnished to Client or Client's agents or designees, if not paid for, will be returned upon demand and will not be used by client for any purpose whatsoever. Client further agrees that under no circumstances shall any documents produced by us pursuant to this Agreement be used at any location or for any project not expressly provided for in this Agreement without our prior written permission. If Client uses all or any portion of our work on another project without our permission, Client shall to the maximum extent permitted by law save us harmless from any and all claims arising from such unauthorized reuse. Further, no part of any document we deliver to Client shall be reproduced or distributed, whether for advertising or any other purpose, without our prior written consent. Any such reproduction or distribution shall be at Client's sole risk and without liability or legal exposure to consultant.

Field Representation. The presence of our field personnel either full- or part-time will be for the purpose of providing observation and field testing of specific aspects of the project. Should a contractor be involved in the project, our work does not include supervision or direction of the actual work of the contractor, his employees or agents. The contractor should be so advised. The contractor should also be informed that neither the presence of our field representative nor the observation and testing by us shall excuse contractor in any way for defects discovered in contractor's work. It is agreed that we will not be responsible for job or site safety on the project and that we do not have the right to stop the work of the contractor.

Severability. In the event that any provision herein shall be deemed invalid or enforceable, the other provisions hereof shall remain in full force and effect, and binding upon the parties hereto.

Priority Over Form Agreements/Purchase Orders. The Client agrees that the provisions of this agreement shall control and govern over any orders, purchase orders or work orders or other form writings issued or signed by the parties ("orders"), and such forms shall have no force or effect but may be issued by Client to PreStrike-EI without altering the terms hereof, solely for the purpose of convenience in ordering services.

Termination. This agreement may be terminated by either party with or without cause upon giving (7) days prior written notice to the other party. This agreement will terminate automatically upon the insolvency of the Client. In the event Client requests termination prior to the completion of the proposed services, Client shall take possession of the premises and the materials and equipment paid for and belonging to Client, and PreStrike-EI shall be paid for all services performed to the date of termination and for all reasonable costs incurred in project closeout.

Consideration. The parties agree the charges for PreStrike-EI's services are sufficiently adjusted downward to include any specific consideration payable to Client for any indemnities or any other clause requiring specific consideration as required under these Terms and Conditions.

Attorney Authority: If PreStrike-EI is being retained by Client's counsel, such counsel represents that he/she has the authority to bind, and hereby expressly binds Client to these Terms and Conditions.

Survival. All obligations arising prior to the termination of the Agreement and all provisions of this Agreement allocating responsibility or liability between Client and Contractor shall survive the completion of the services and the termination of this Agreement.

Integration. This Agreement and the documents attached hereto and which are incorporated herein constitute the entire Agreement between the parties and cannot be changed except by a written instrument signed by both parties.

Governing Law. This Agreement and any amendments to it shall be governed in all respects by the laws of the State of Florida. The parties hereby agree that the venue for any lawsuit filed by any person pursuant to this Agreement shall only be in Hillsborough County, Florida. Each party hereby irrevocably submits itself to the original jurisdiction of the state and federal courts sitting in or having jurisdiction over Hillsborough County, Florida with regard to any controversy in any way relating to the execution, delivery or performance of this Agreement. The parties each had an opportunity to review and negotiate this agreement and this agreement shall not be construed more strictly against one party as drafter.

RESOLUTION 2020 - 13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING AN AGREEMENT BETWEEN MDO ENGINEERING, INC. AND THE CITY OF PAHOKEE FOR PROFESSIONAL ENGINEERING AND CONSULTING SERVICES RELATED TO THE OLD CITY HALL DEMOLITION PROJECT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Pahokee, Florida (the "City") is in need of an engineer to provide professional engineering and consulting services related to the "Old City Hall" demolition project; and

WHEREAS, Section 2-272(5) of the City of Pahokee Code of Ordinances exempts engineering services from competitive bidding, unless required by law; and

WHEREAS, Section 287.055, Florida Statutes exempts engineering services from competitive bidding for construction projects estimated to cost less than \$325,000.00; and

WHEREAS, the Old City Hall demolition project is a construction project estimated to cost less than \$325,000.00; and

WHEREAS, MDO Engineering, Inc. ("Engineer") and City desire to enter into the Agreement whereby the Engineer will provide engineering services related to the Old City Hall demolition project pursuant to the Agreement attached hereto as Exhibit "A", and for a contract price not to exceed \$26,500.00 (the "Agreement"); and

WHEREAS, the City Commission of the City of Pahokee, Florida has determined that approval of the Agreement is in the best interests of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AS FOLLOWS:

Section 1. Adoption of Representations. The foregoing whereas clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. Authorization Approving Agreement and Execution. The City Commission of the City of Pahokee hereby approves the Agreement between the City of

Pahokee and MDO Engineering, Inc. and further authorizes the City Manager to execute the Agreement attached hereto as Exhibit "A".

Section 3. Effective Date. This Resolution shall be effective immediately upon its passage and adoption.

PASSED and ADOPTED this _____ day of April, 2020

Keith W. Babb, Jr., Mayor

ATTEST:

Nohemi Polanco, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Burnadette Norris-Weeks, P.A.
City Attorney

Moved by: _____

Seconded by: _____

VOTE:

| | | |
|----------------------|-------------|------------|
| Commissioner Bohlen | _____ (Yes) | _____ (No) |
| Commissioner Everett | _____ (Yes) | _____ (No) |
| Commissioner Hill | _____ (Yes) | _____ (No) |
| Vice-Mayor Murvin | _____ (Yes) | _____ (No) |
| Mayor Babb | _____ (Yes) | _____ (No) |

Exhibit "A"

Agreement for Engineering Services with MDO Engineering, Inc.

PROFESSIONAL SERVICES AGREEMENT FOR
PROFESSIONAL ENGINEERING INSPECTION AND CONSULTING SERVICES

THIS AGREEMENT made and entered into this ____ day of _____, 2020, by and between the City of Pahokee ("City"), a political subdivision of the State of Florida, hereinafter referred to as "City" and MDO Engineering, Inc. ("MDO Engineering" or "Consultant"), authorized to do business in the State of Florida, hereinafter referred to as the "Consultant".

In these General Conditions, MDO ENGINEERING, INC. (hereinafter referred to as "MDO ENGINEERING" or "CONSULTANT.")

WHEREAS, Section 2-272(5) of the City of Pahokee's Code of Ordinances exempts engineering services from competitive bidding, unless required by law; and

WHEREAS, Section 287.055, Florida Statutes exempts engineering services from competitive bidding for construction projects estimated to cost less than \$325,000.00; and

WHEREAS, the City desires to hire the Consultant to provide professional engineering, inspection and consulting ("Services") in connection with the City's RFP #2020-01 for General Contract Demolition Services, and as set forth in this Agreement, including Exhibit "A" hereto; and

WHEREAS, Consultant has expressed the capability and desires to perform the Services described herein; and

WHEREAS, the Consultant and City desire to enter into the foregoing Agreement to include the period that will allow completion of the needed demolition services for a period of up to one year.

NOW, THEREFORE, in consideration of the mutual terms and conditions, the Parties agree as follows:

ARTICLE 1

The above Recitals are incorporated herein by reference.

1.1 The following documents are incorporated and made part of this Agreement:

Scope of Work (City's RFP #2020-01 for General Contract Demolition Services, Exhibit "A"); Scope of Services ("Exhibit "B"); Standard Hourly Rates (Exhibit "C").

1.2 All exhibits may also be collectively referred to as the "Documents". In the event of any conflict between the Documents or any ambiguity or missing specification or instruction, the following priority is established:

- Specific written direction from the City Manager (or designee) not inconsistent with this Agreement.
- This Agreement.
- Exhibit "A" RFP #2020-01
- Exhibit "B" Scope of Services
- Exhibit "C" Standard Hourly Rates

ARTICLE 2

SERVICES AND RESPONSIBILITIES

2.1 General – These general provisions shall relate to this Agreement.

2.1.1 **Services by Consultant;** Standard of care. Consultant will perform the services described in this Agreement which are issued under this Agreement and signed by both parties. In performing the services, Consultant will exercise the degree of care and skill ordinarily exercised by reputable engineering companies performing the same or similar services within the State of Florida. Consultant will

not have any obligation to perform services not expressly described in this Agreement.

- 2.1.2 **Hazardous materials.** Consultant's services do not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of petroleum or petroleum products (collectively called "Oil") or of any hazardous, toxic, radioactive or infectious substances, including any substances regulated under RCRA or any other federal or state environmental laws (collectively called "Hazardous Materials").
- 2.1.3 **Other contractors.** Consultant shall not have any duty or authority to direct, supervise or oversee any contractors of CITY. Consultant shall not be liable for the failure of CITY's contractors or others to fulfill their responsibilities. Consultant is expected to advise City of a deviation from expected professional standards.
- 2.1.4 **Health and safety.** Consultant shall not be responsible for health or safety programs or precautions related to City's activities or operations, CITY's other contractors, the work of any other person or entity, or site conditions.
- 2.1.5 **Notice to Proceed.** The Consultant agrees, upon issuance of a Notice to Proceed (or similar written work authorization) to perform work for the benefit of the City the Services set forth herein and, in the exhibits, and shall be perform in accordance with standard industry practice. The Consultant shall guard against defects in its work.
- 2.1.6 **Furnish Data.** City will furnish to Consultant any data available in the City files pertaining to the work to be performed under this agreement promptly after the Notice to Proceed or similar document is issued.
- 2.1.7. **Minutes.** Consultant agrees to produce and distribute minutes, within two (2) working days after each meeting at which his presence is required. The minutes shall be emailed to the City Manager for review.
- 2.1.8 City agrees to issue all directives and approval in writing.

ARTICLE 3

PROFESSIONAL SERVICES

Professional Services: The general scope of professional services to be provided by the Agreement shall include overall review and consultation of the services as set forth in Exhibit "A", services required by this Agreement and the Scope of Work as set forth in Exhibit "B".

In addition, Consultant shall visit the site at least twice per week and for all key events to ascertain the progress of the Project and to determine, in general, if the WORK is progressing in accordance with the Contract Documents, plans, drawings, engineering standards and state and federal laws. On the basis of on-site observations, Consultant will use reasonable and customary care to guard the CITY against defects and deficiencies in the WORK. If necessary, Consultant may be required to provide daily on-site observations to check the quality of the WORK as set forth in this Agreement and defined by the Scope of Services issued for the project. Consultant will advise the CITY as to the progress of and any observed defects and deficiencies in the WORK immediately in writing.

Consultant will provide CITY with a written report of all observations of the WORK made by him/her during each visit to the WORK and note general status and progress of the WORK.

Consultant shall have an affirmative duty to recommend rejection of WORK, which does not conform, to the Contract Documents. Whenever, in his reasonable opinion, he considers it necessary or advisable to insure compliance with the Contract Documents, he will have authority (with the City's prior approval) to recommend special inspections or testing of WORK deemed not to be in accordance with the Contract whether or not such WORK has been fabricated, if applicable, and delivered to the Project, or installed and completed.

Consultant shall promptly review and approve shop drawings, samples, and other submissions for conformance and necessary for compliance in order to complete of the project.

ARTICLE 4
CITY'S RESPONSIBILITIES

- 4.1 The City shall do the following in a timely manner so as not to delay the services of the Consultant:
 - 4.1.1 Designate in writing a person to act as the City's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions and receive information with respect to the Consultant's services for a particular project.
 - 4.1.2 Provide or arrange for access and make all provisions for Consultant to enter any site where services are to be performed.
 - 4.1.3 Furnish Consultant with all approvals, permits and consents from government authorities and others as may be required for performance of the services.
 - 4.1.4 Comply with all laws and provide any notices required to be given to any government authorities in connection with the services, except for such notices Consultant has expressly agreed in writing to give.
 - 4.1.5 Environmental assessment and impact statements.
 - 4.1.6 Property, boundary, easement, right-of-way, topographic and utility surveys.
 - 4.1.7 Property descriptions.
 - 4.1.8 Zoning, deed and other land use restrictions, if known
 - 4.1.9 Approvals and permits required in the City's jurisdiction and those from outside agencies unless such approvals and permits are the responsibility of the Consultant, all of which the Consultant may use and rely upon in performing services under this Agreement.

ARTICLE 5

SEQUENCE OF SERVICES AND TIME FOR PERFORMANCE

5.1 This Agreement shall commence upon the execution by both parties and shall continue for a term of one (1) year, unless terminated sooner as provided for in this Agreement. The Consultant understands and acknowledges that the Services to be performed during the term hereof will be governed by this Agreement, and that there is no guarantee of future work being given to the Consultant.

5.2 The services rendered by Consultant for work shall be commenced upon written notice to proceed from the City subsequent to execution of this Agreement and shall be completed within the time based on reasonable determination stated in said Notice to Proceed.

5.3 A reasonable extension of time will be granted in the event there is a delay on the part of the City in fulfilling its part of the Agreement, change of scope of work or should any other events beyond the control of consultant render performance of duties impossible.

5.4 When the City issues a Notice to Proceed or work authorizations to the Consultant, each such authorization will contain a stated completion schedule in consultation with Consultant. Failure of the Consultant to meet the stated schedule will constitute a default, for which payment for services may be withheld until default is cured. Time extensions will be reviewed, upon request, for extenuating circumstances.

5.5 When the Consultant has exceeded the stated completion date, including any extension for extenuating circumstances which may have been granted, a written notice of Default will be issued to the Consultant and payment for services rendered shall be withheld.

5.6 Should the Consultant exceed the assigned completion time of an individual work authorization, the City reserves the right not to issue to the Consultant any further work authorizations until such time as there is no longer in a Default and the Consultant has demonstrated, to the City's satisfaction, that the reasons for tardy completion have been addressed and are not likely to be repeated in subsequent work authorizations. This restricted issuance provision may result in the Consultant not being issued all of the planned work the City anticipated in this Agreement. The Consultant shall have no right to the balance of any work, nor to any compensation associated with these non-issued work authorizations, due to the Consultant being in Default.

5.7 Should the Consultant remain in Default for a time period of fifteen (15) consecutive calendar days, the City may, at its option, retain another Consultant to perform any Work arising out of this Agreement and/or terminate this Agreement.

ARTICLE 6

DELAY IN PERFORMANCE/SUSPENSION OR ABANDONMENT

6.1 City shall be entitled to withhold payments to Consultant for services rendered until completion of services to the City's satisfaction.

6.2 A delay due to an Act of God, fire, lockout, strike or labor dispute, manufacturing delay, riot or civil commotion, act of public enemy or other cause beyond the control of Consultant, or by interruption of or delay in transportation, labor trouble from whatever cause arising and whether or not the demands of the employees involved are reasonable and with City's power to concede, partial or complete suspension of City's operations, compliance with any order or request of any governmental officer, department, agency, or committee shall not subject City to any liability to Consultant. At the City's option, the period specified for performance of services shall be extended by the period of delay occasioned by any such circumstance, and services omitted shall be made or performed during such extension, or the services so omitted shall extend this Agreement for a period equal to such delay. During this period such delay shall not constitute a delay by the Consultant.

ARTICLE 7

COMPENSATION AND METHOD OF PAYMENT

7.1 City agrees to compensate Consultant for the services performed pursuant to the provisions of this Agreement based on the attached **Exhibit "C"**, for an amount not to exceed Twenty-Six Thousand Five Hundred Dollars (\$26,500.00).

7.2 The City shall pay Consultant within thirty (30) days of receipt of any invoice the total shown to be due on such invoice, provided the City has accepted the Consultant's performance.

7.3 City is not obligated to pay for any work performed without a written invoice.

Consultant shall produce to City a billing statement specifying the work performed utilizing the values set forth in Exhibit "C" and not to exceed the total amount of this Agreement as set forth in 7.1 above.

ARTICLE 8

OWNERSHIP OF DOCUMENTS

8.1 All documents, design plans and specifications resulting from the professional services rendered by the Consultant under this Agreement shall be deemed the sole property of the City, and the City shall have all rights incident to the sole ownership. The reuse of any such documents, design plans, and specifications by the City or any project not covered by this Agreement without the written authorization of Consultant shall be at City's sole risk. Consultant agrees that all documents maintained and generated pursuant to this contractual relationship between City and Consultant shall be subject to all provisions of Chapter 119.01 et. seq. Florida Statutes and Contractor shall maintain all records and produce such records upon written request, after notifying City of any said request.

8.2 The Consultant shall agree to indemnify and hold harmless the City, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant.

ARTICLE 9

COURT APPEARANCE, CONFERENCES AND HEARINGS

9.1 This Agreement shall obligate the Consultant to prepare for and appear in litigation or any other proceeding on behalf of the City for any dispute arising out of this Agreement. Except for litigation caused by errors or omissions of the Consultant, Consultant shall be compensated for such litigation support services as determined reasonable by City and at prevailing rates.

9.2 The Consultant shall confer with the City during the performance of the Services regarding the interpretation of this Agreement, the correction of errors and omissions, the preparation of any necessary revisions to correct errors and omissions or the clarification of service requirements, all without compensation.

ARTICLE 10

REPRESENTATIONS

10.1 The Consultant shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement and all services performed under this Agreement shall be done in a professional manner.

10.2 The Consultant represents, with full knowledge that the City is relying upon these representations when entering into this Agreement with the Consultant, that the Consultant has the professional expertise, experience and manpower to perform the services as described in this Agreement.

10.3 The Consultant shall be responsible for technically deficient designs, reports or studies due to Consultant's errors and omissions, for four years after the date of final acceptance of the Services by the City or as provided under Florida law, whichever is greater. The Consultant shall, upon the request of the City, promptly correct or replace all deficient work due to errors or omissions which fall below the recognized standard of care, without cost to City. The Consultant shall also be responsible for all damages resulting from the Consultant's documents. Payment in full by the City for services performed does not constitute a waiver of this representation.

10.4 All services performed by the Consultant shall be to the satisfaction of the City. In cases of disagreement or ambiguity, the City shall decide all questions, difficulties and disputes of whatever nature that may arise under this Agreement. Specifically, the City shall decide all questions, difficulties and disputes of whatever nature which may arise by reason of this agreement, the prosecution and fulfillment of the services and the character, quality, amount and value and the City's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon the parties unless such determination is clearly arbitrary or unreasonable. In the event that Consultant does not agree with the position of the City, Consultant shall advise the City Manager in writing that Consultant desires to seek resolution of such dispute, claim or controversy by arbitration in accordance with Paragraph 27 herein.

10.5 The Consultant warrants and represents that all of its employees, other Consultants and sub-contractors are treated equally during employment or retention without regard to race, color, religion, gender, age or national origin.

10.6 The Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract and that it has not paid or agreed to pay any company or person other than a bona fide employee working solely for the Consultant any fee, commission, percentage fee, gifts or any other considerations contingent upon or resulting from the award or making of this contract. For breach or violation of this representation, the City shall have the right to cancel this Agreement without liability to the Consultant or any third party. Execution of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate certifying that wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of this Agreement.

ARTICLE 11

NOTICES

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated or as may be changed from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the date of actual receipt.

Consultant: Marcos Montes De Oca
 2001 SW 8TH ST
 Okeechobee, FL 34974

City: Chandler Williamson, City Manager
 207 Begonia
 Pahokee, FL 33476

Copy To: Burnadette Norris-Weeks, City Attorney
 Burnadette Norris-Weeks, P.A.
 401 North Avenue of the Arts
 Fort Lauderdale, Florida 33311

ARTICLE 12
AUDIT RIGHTS

The City reserves the right to audit the records of the Consultant covered by this Agreement at any time during the execution of the Services and for a period of three (3) years after final payment is made for any Work performed.

ARTICLE 13

SUBCONTRACTING

13.1 No Services shall be subcontracted, assigned, or transferred under this Agreement without the prior consent of the City, which consent may be withheld.

13.2 The Consultant shall be fully responsible to the City for all acts and omissions of any agents or employees, or approved subcontractors. Subcontractors shall be approved by City, in writing, and have appropriate general liability, professional liability, and workers' compensation insurance, or be covered by Consultant's insurance. Consultant shall furnish the City with appropriate proof of insurance and releases from all subcontractors in connection with the work performed.

ARTICLE 14

TERMINATION

14.1 The Either party to this Agreement retains the right to terminate Consultant's services and/or this Agreement, with or without cause, upon thirty (30) days written notice, at any time prior without penalty. City shall only be responsible to pay the Consultant for any service actually rendered up to the date of termination. Consultant shall not be entitled to any other amounts or damages, including but not limited to anticipated profits or consequential damages, special damages or any other type of damages upon termination by the City pursuant to this Article.

14.2 It is understood by the City and Consultant that any payment to Consultant shall be made only if Consultant is not in default under the terms of this Agreement.

14.3 Upon receipt of a Termination Notice and except as otherwise directed by the City, Consultant shall:

14.3.1 Stop work on the date and to the extent specified.

14.3.2 Terminate and settle all orders relating to the terminated work.

14.3.3 Transfer all work in progress, completed work, and other materials related to the terminated work to the City.

ARTICLE 15

DEFAULT

15.1 An event of default shall mean a breach of this Agreement by the Consultant. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:

Consultant has not performed services on a timely basis;

Consultant has refused or failed to supply enough properly skilled Personnel or time;

Consultant has failed to make prompt payment to subcontractors or suppliers for any services after receiving payment from the City for such services or supplies, if applicable;

Consultant has failed to obtain the approval of the City where required by this Agreement;

Consultant has failed in any representations made in this Agreement; or

Consultant has refused or failed to provide the Services as defined in this Agreement; or

Consultant has filed bankruptcy or any other such insolvency proceeding and the same is not discharged within 90 days of such date.

15.2 In an Event of Default, the Consultant shall be liable for all damages resulting from the default, including:

The difference between the amount that has been paid to the Consultant and the amount required to complete the Consultant's work, provided the fees by the firm replacing the Consultant are reasonable and the hourly rates do not exceed the

Consultant's rates. This amount shall also include procurement and administrative costs incurred by the City. Consequential damages and Incidental damages.

15.3 The City may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy given or otherwise existing and may be exercised from time to time and as often and in such order as may be deemed expedient by the City. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the City in law or in equity.

ARTICLE 16

INDEMNIFICATION

16.1 Consultant shall indemnify and hold harmless the City, its trustees, elected and appointed officers, agents, servants and employees, from any and all claims, demands, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by, arising out of, or resulting from the negligence, recklessness, errors, omissions or intentionally wrongful conduct of the Consultant or its employees, agents, servants, partners, principals, sub-consultants or other persons utilized by the Consultant in the performance of this Agreement.

Consultant shall pay all claims and losses in connection therewith and Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Consultant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its elected and appointed officers, agents, servants and employees as herein provided. Nothing contained herein shall be deemed a waiver of sovereign immunity.

ARTICLE 17

INSURANCE

17.1 Throughout the term of this Agreement, the Consultant shall maintain in force at its own expense and name the City and an additional insured for insurance as follows:

17.1.1 Workers' Compensation: Workers' Compensation Insurance with statutory limits, including coverage for Employer's Liability, with limits not less than \$1,000,000.00.

17.1.2 General Liability: Commercial General Liability with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property damage including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. This coverage is required by the Consultant and any subcontractor or anyone directly or indirectly employed by either of them. The City shall be named additional insured.

17.1.3 Automobile Liability: Comprehensive or Business Automobile Liability Insurance with not less than \$500,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for owned, hire and non-owned vehicles as applicable. The Consultant and any of its approved subcontractors shall take out and maintain this insurance coverage against claims for damages resulting from bodily injury, including wrongful death and property damage which may arise from the operations of any owned, hired or non-owned automobiles and/or equipment used in any endeavor in connection with the carrying out of this Agreement. The City shall be named as an additional insured.

17.1.4 Professional Liability: The Consultant, its officers, employees and agents will provide the City a Certificate of Insurance evidencing professional liability insurance with limits of not less than \$1,000,000.00 aggregate with respect to acts, errors or omissions in connection with professional services to be provided under this Agreement and any deductible is not to exceed \$25,000.00 for each claim. Consultant represents it is financially responsible for the deductible amount. The Consultant shall maintain professional liability insurance during the term of this Agreement and for a period of four (4) years from the date of completion of each Project. In the event that Consultant goes out of business during the term of this Agreement or the four (4) year period described above, Consultant shall purchase Extended Reporting Coverage for claims arising out of Consultant's negligent acts errors and omissions during the term of the Professional Liability Policy.

17.1.5 Subcontractor's Insurance: Each subcontractor, to the extent applicable, shall furnish to the Consultant two (2) copies of the Certificate of Insurance and Consultant shall furnish one copy of the Certificate to the City, and shall name the City as an additional insured.

17.2 All insurance policies required of the Consultant shall be written by a company with a Best's rating of B+ or better and duly authorized and licensed to do business in the State of Florida and be executed by duly licensed agents upon whom service of process may be made in Palm Beach County, Florida. The City may accept coverage with carriers having lower Best's ratings upon review of financial information concerning Consultant and the insurance carrier.

17.3 The required insurance shall be proved under occurrence-based policies, which Consultant shall maintain continuously throughout the term of this Agreement.

17.4 Any deductibles or self-insured retentions must be declared to and approved by the City Manager or designee prior to the start of work under this Agreement. The City reserves the right to request additional documentation, financial or other such documentation as well as such additional insurance as the City Manager deems appropriate, prior to giving approval of the deductible or self-insured retention and prior to executing the Agreement. The City Manager or designee, prior to the change taking effect, must approve any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy.

ARTICLE 18

ATTORNEYS FEES

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, expenses and court costs, including appellate fees incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 19

CODES, ORDINANCES, AND LAW

The Consultant shall abide and be governed by all applicable local, state and federal codes, ordinances, and laws, rules, regulations and directives regarding the Consultant's Services.

ARTICLE 20

ENTIRETY OF AGREEMENT

This Agreement and its attachments constitute the sole and only Agreement of the parties and sets forth the rights, duties, and obligations of each party. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

ARTICLE 21

NON-EXCLUSIVE AGREEMENT

The professional services to be provided by the Consultant pursuant to this Agreement shall be nonexclusive, and nothing shall preclude the City from engaging other firms to perform similar professional services.

ARTICLE 22

GOVERNING LAW; VENUE

This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue shall be in Palm Beach County, Florida.

LEFT BLANK INTENTIONALLY

ARTICLE 23

INDEPENDENT CONTRACTOR

Consultant and its employees and agents shall be deemed to be independent contractors and not City agents or employees. The Consultant, its employees or agents shall not attain any rights or benefits under the City's retirement plan nor any rights generally afforded the City's classified or unclassified employees. The Consultant shall not be deemed entitled to the Florida Workers' Compensation benefits as a City employee.

ARTICLE 24

NONDISCRIMINATION

Consultant agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

ARTICLE 25

AMENDMENTS

No amendments to this Agreement shall be binding on either party unless in writing and signed by both parties.

ARTICLE 26

CONDUCT/CONFLICT OF INTEREST

Consultant covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, direct or indirect, with Consultants or vendors providing professional services on projects assigned to the Consultant, except as fully disclosed and approved by the City. Consultant further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

ARTICLE 27

MEDIATION

Any claims, controversies or disputes arising out of the terms of this Agreement or its interpretation shall be first attempted by mediation in the State of Florida in accordance with the rules, procedures and regulations of the American Arbitration Association.

ARTICLE 28

OTHER PROVISIONS

28.1 Title and paragraph headings are for convenient reference and are not a part of this Agreement.

28.2 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same of any other provision, and no waiver shall be effective unless made in writing.

28.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida by a court of competent jurisdiction, such provision, paragraph, sentence, word or phrase shall be deemed modified in order to conform with Florida law. If not modifiable to conform with such law, then it shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

28.4 This Agreement is binding upon the parties hereto their heirs, successors and assigns.

28.5 This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have had legal and business advisory's review the adequacy of the same.

28.6 This Agreement may not be assigned by the Consultant without the express written consent of the City, which consent may be withheld.

LEFT BLANK INTENTIONALLY

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

CITY OF PAHOKEE

ATTEST:

City Clerk

BY: _____

Keith W. Babb, Jr. Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Burnadette Norris-Weeks, City Attorney

CONSULTANT

MARCOS MONTES DE OCA

WITNESSES:

ATTEST:

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, a Florida corporation, and acknowledged executed the foregoing Agreement as the proper official of _____, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this __ day of _____, 2020.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"

City's RFP #2020-01 for General Contract Demolition

EXHIBIT "B"

SCOPE OF SERVICES

City of Pahokee

Demolition of Old City Hall

Services During Construction MDO Engineering, Inc. ("Consultant") will perform inspections of the demolition site no less than two times per week and more often when necessary to observe the progress and quality of work, ensure work is completed as necessary to support the engineering services and to review the requirements of the work as set forth in Exhibit "A." Additionally, Consultant agrees to work with City and present a schedule of work and a work schedule. The demolition anticipated by Exhibit "A" is expected to last approximately forty-five (45) days. The services performed shall include that set forth herein and in Article 3 of this Agreement. More specifically, Consultant shall:

- Observe demolition and ensure it is in accordance with acceptable construction practices.

- Attend preconstruction meeting, final site meeting and process meetings as noted during demolition.

- Site demolition visits are needed to observe work.

- Contractor Coordination of facilities and utilities.

- Preview of all invoices and verification of quantities invoiced to City by third party contractor.

- Final Inspection and letter Completion of Work.

- All other requirements of this Agreement.

At the conclusion of the Work, Consultant will prepare a letter of completion to City based upon field inspections. For the Agreement is for a lump sum NOT TO EXCEED a total amount of \$26,500.00, and utilizing the rates set forth in Exhibit "C".

LEFT BLANK INTENTIONALLY

EXHIBIT "C"

MDO ENGINEERING INC.

Standard Hourly Rates

Effective July 1, 2012 (Rev 8/1/2015)

Engineers, Planners, Architects, Landscape Architects, Geologists & Construction Managers

| | |
|---------------------|-------------------|
| Assistant | \$85.00 per hour |
| Associate | \$95.00 per hour |
| Principle / Officer | \$135.00 per hour |

Technical/Designer Personnel:

| | |
|----------------------------|-------------------|
| Designer/Technician | \$ 85.00 per hour |
| Senior Designer Technician | \$110.00 per hour |

CADD Personnel:

| | |
|---------------|------------------|
| CADD Operator | \$85.00 per hour |
|---------------|------------------|

Administrative Personnel:

| | |
|--------------------------------|-------------------|
| Project Administrative Support | \$ 45.00 per hour |
|--------------------------------|-------------------|

Construction Inspection:

| | |
|--------------------------------|--------------------|
| Assistant Field Representative | \$ 85.00 per hour |
| Senior Project Representative | \$ 105.00 per hour |

Direct Project Expenses:

| | |
|--------------------------------|-------------------|
| Travel - Automobile/Truck | Current IRS Rate |
| Travel - Other than Automobile | Actual Cost + 12% |

Sub-Contractor:

Actual Cost + 12%