

**DEBRIS REMOVAL SERVICES CONTRACT**  
**0112-1180-D&J**

**THE PARTIES TO THIS CONTRACT** are the City of Daytona Beach, a Florida municipal corporation, hereinafter the "City" and **D. & J. Enterprises, Inc.** a foreign profit corporation, hereinafter the "Contractor."

In consideration of the mutual covenants herein contained, the Parties agree as follows:

**Section 1. Effective Date, Term, and Renewals.** The Effective Date of this Contract is the date on which the last Party signs it. The Initial Term of this Contract is one five years beginning on the Effective Date. The City will have the option to renew this Contract for ~~up to four~~ one additional ~~one-year~~ five-year terms by providing the Contractor written notice.

**Section 2. Contract Documents.**

(a) This Contract incorporates, and the term, "Contract Documents" includes, City Invitation to Bid No. 0112-1180, including Instructions to Bidders, Supplemental Instructions, all Addenda, all Exhibits, and all other documents referenced therein; and the Contractor's Bid dated 5/1/12, and all documents submitted by Contractor with the Bid. All references in the Contract Document to "Bidder" and "Contractor" are intended to refer to the Contractor.

(b) In case of conflicts among the Contract Documents, interpretations will generally be based on the following order of precedence, ranked from top priority to bottom:

- (1) Formal Amendments to the Contract, approved Change Orders;
- (2) This Form Contract;
- (3) Addenda to the Bid Documents issued by the City prior to bid award;
- (4) Supplemental Instructions;
- (5) The Bid Schedule; and
- (6) All other provisions of the Invitation to Bid and Bid Documents.

Provided, however, that in all instances a common sense approach will be used as necessary so that the Contract Documents produce the intended response.

(c) Terms, including abbreviations and acronyms used herein will have the meaning provided in the Invitation to Bids.

**Section 3. Scope of Services.** Contractor will from time to time provide the City with post-storm or other post-disaster related debris removal services. Services will include

way as further described in the Contract Documents during the City during the Term of this Contract. Generally, the Contractor will remove only "eligible debris" as that term is used in the Contract Documents. The only exceptions to this will be when the Task Order or the City's Designated Representative specifically authorizes Contractor to remove non-eligible debris in writing.

**Section 4. Services Must be Authorized in Writing.** This Contract, in and of itself, does not require the Contractor to perform any services or obligate the City to pay for such services. No services will be provided under this Contract, any no payment obligation will arise for performance of services, except when specifically authorized by a written Task Order issued in accordance with the provisions of this Contract. No Task Order issued will alter the terms and conditions of this Contract. In case of a conflict with a Task Order and this Contract, this Contract will govern. The Task Order may provide more detailed parameters for the services to be provided, such as deliverables, deadlines, etc. consistent with the provisions of this Contract.

No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.

**Section 5. Payment and Rates.** Each Task Order will set forth an amount for payment. Payment will be established as a not-to-exceed amount. Payment will be based on the Unit Prices set forth in the Bid Schedule, subject only to Unit Price Adjustments as referenced in Section 6, below. The purchase order will include sufficient documentation to describe the basis on which payment has been calculated.

No additional compensation will be due to the Contractor for any reason. Contractor will fully bear all costs and expenses of performance, including all use, lease or other taxes, fuel expenses, and all personnel and equipment costs incurred by Contractor in providing Services.

**Section 6. Adjustments to Unit Price.** This Contract allows for an annual percentage adjustment to Unit Prices. The Contractor must request such an adjustment in writing no later than 60 days prior to the anniversary of the Effective Date, and must include in the written request documentation that the Contractor has incurred bona fide cost increases in providing services under this Contract during the year in which the request is made.

Any such increases will not exceed the Consumer Price Index (CPI) Series ID: CWUR0000SAG US City Average Other Goods and Services. Price Adjustment will be based on the annual index (regular or preliminary – whichever is available) at the end of the prior year. The price adjustment will be calculated on the simple percentage method.

Example:

Escalation Factor = (Index at time of calculation) / (Index at time contract prices were set)

Index at price adjustment	323.6
Divided by index when contract price was set	313.5
Escalation Factor = (323.6 / 313.5)	1.032

This calculation indicates that the contract price should be increased by 3.2 percent.

New price = Contract Price x Escalation Factor

Contract Price (Illustrative Only)	\$10.00/hour
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Escalation Factor	1.032
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New Price = (10.00 x 1.032)	\$10.32/hour
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The CPI can be found on the web at <http://www.bls.gov/cpi/home.htm>.

**Section 7. Billing; Manner of Payment.** In addition to requirements for payment established by applicable federal, state, or local law including the Daytona Beach City Code, or the Exhibits, payment terms and conditions are as follows:

- (1) The Contractor must separately invoice the City for each Task Order. The Contractor will invoice the City in accordance with the requirements of the Task Order.
- (2) In order to be considered to be proper, the invoice must include all information that the City may need to verify the accuracy of the invoice and the amount of payment due based on the specific requirements of this Contract, such as where payment is not due until deliverables are provided, or reimbursement of expenses is contingent upon proof of same; and in addition must include where applicable all information needed by the City to obtain federal reimbursement by FEMA and other federal authorities.
- (3) The City may withhold payment or final payment for reasons including, but not limited to the following: unsatisfactory job performance or progress, defective work, disputed work, failure to comply with material provisions of the contract, third party claims filed or reasonable evidence that a claim will be filed or other reasonable cause. Any liquidated damages should be equal to daily monitoring costs and other costs incurred by lengthening the contract duration. The City shall within 30 days after receipt of an invoice notify the Contractor that the invoice is improper.
- (4) The City will make payment, less any offsets or deductions authorized hereunder or by law, within 30 days of receipt of a proper invoice; and, in the case of final payment, certification of completion of the project by the City's authorized agent, provided the Contractor has completed filing of all contractually required documents and certifications with the City's authorized agent, including acceptable evidence of the satisfaction of all claims or liens and receipt of lien waivers from all subcontractors retained by Contractor.

**Section 8. Standard of Performance.** The Contractor will perform the services required in a good and workmanlike manner consistent with industry standards for such services.

**Section 9. Personnel; Subcontractors.** Contractor represents that the Contractor has or will secure at the Contractor's own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of or have any contractual relationship with the City. All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such services.

The Contractor will require all subcontractors to comply with the standards applicable under this Contract to the Contractor's performance, including conformance to all applicable federal, state, and local laws and regulations, obtaining and maintaining licensure as applicable, and complying with all terms and conditions of the specific task order. Before commencing services Contractor will be required to provide the City with an updated list of all subcontractors including phone numbers of contact personnel. In addition, prior to assigning work the Contractor shall provide the City with an affidavit from each subcontractor stating there is a signed contract between the Contractor and subcontractor.

The City reserves the right to require the Contractor to dismiss or remove from the project any workers as the City deems necessary. Any debris removal vehicles dismissed from the project must have their issued placard removed and destroyed.

**Section 10. Compliance with Laws and Regulations.** Contractor will comply with all applicable federal, state, and local laws.

(a) Contractor's obligation includes, for purposes of helping ensure the City's eligibility for federal reimbursement for the City's costs of paying Contractor for the services to be provided, compliance with the following pursuant to 44 CFR Part 13.36:

- (1) Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60);
- (2) The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3);
- (3) The Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5);
- (4) Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5);
- (5) All applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33

U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and

(6) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871) and (vii) Applicable provisions of the Americans with Disabilities Act.

(b) In addition, before commencing services Contractor will, at its sole expense, obtain all licenses, permits and other governmental authorizations needed to perform its services, including without limitation, a business tax receipt issued by the City and any permits required by the EPA or the FDEP, if any, that relate thereto (collectively, "Licensing"). Contractor further agrees to maintain that Licensing, and comply with the terms of all such licenses or permits, throughout the term of the Agreement.

(c) Contractor acknowledges and agrees that it will be solely responsible for any liability, fees, fines, claims, etc., which may arise from its improper handling, disposal or hauling of materials.

**Section 11. Recordkeeping.** Contractor shall provide and submit to the City, all reports and documents as may be necessary to adequately document its performance of this contract, including, without limitation, all requirements for documentation requested by FEMA, FHWA, or State government for reimbursement of costs. In providing the above data, Contractor has taken into account all contingencies foreseeable by anyone with the expertise and knowledge in disaster debris removal, including, but not limited to, the Right-of-Entry process for debris removal from private property and the related requirement of regulatory agencies.

Contractor acknowledges that any payments made by the City for Services are intended to be eligible for reimbursement by FEMA or the FHWA under the applicable federal legislation. Contractor will maintain accurate, complete and sufficient records to document its use and expenditure of the funds relative to its Services. The City, FEMA, FHWA, the Comptroller General of the United States, or any of their duly authorized representatives, may, at reasonable times and places, audit the books and records of Contractor related to the Services. At the request of the City, City, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives Contractor shall furnish (at its own cost) to the City's Director of Finance, at a time and place designated by the City, all books and records, accounts, statements and other documents as needed by the City, FEMA, FHWA, the Comptroller General of the United States, or any of their duly authorized representatives to conduct a financial and/or operational review, audit, examination, excerpt or transcript of Contractor's operations and/or finances in connection with the Services. Contractor also agrees to furnish (at no cost to the City) to the City any and all information which may be requested regarding the use and expenditure of any funds received by Contractor as a result of the Services and contemplated contract. If Contractor refuses to honor the City's request for an audit or for such information within ten days, such failure shall constitute an event of default under the contract.

All pertinent books, accounts, or other records accumulated by Contractor in connection with the Services shall be retained for three years from the later of termination of the contemplated contract, the completion of the Services or any final payment made to Contractor. If any audit, claim or litigation is begun concerning the contract or the Services before the expiration of the three-year period, Contractor shall retain the records until the three years following the resolution of all litigation, claims, or audits involving such records. The City's right to audit pursuant to this shall survive the termination of the contract.

**Section 12. Copyright and Patent.** If Contractor has information that any process, article, property or item used its operations infringes on a patent or a copyright, it shall promptly provide such information to City. Contractor shall pay all royalties and license fees related to its use of those articles. Contractor shall hold and save the City and the City's agents and employees) harmless from liability 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 use in the performance of its services.

**Section 13. Indemnification.** Contractor hereby indemnifies and holds harmless the City of Daytona Beach "City", and their respective officers, employees, and agents, 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 Contractor, and Contractor's officers, employees, and agents including subcontractors and other persons employed or utilized by the Contractor in the performance of this Contract.

Contractor's obligations to indemnify the City are independent of limitations and requirements imposed by this Contract as to insurance coverage. Any limits on insurance coverage required to be provided in this Contract will not serve to limit the Contractor's obligation to indemnify the City hereunder.

**Section 14. Insurance.** Contractor will provide and maintain at Contractor's sole expense, insurance of the kinds of coverage and in the amounts set forth in this Article.

(a) Coverage and Amounts.

(1) Workers Compensation Insurance as required by Florida Statutes, Chapter 440 (and any other applicable federal laws), for all employees of Contractor, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability insurance with limits of not less than \$500,000 per occurrence, project specific. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

(2) Commercial general liability insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring the Contractor

and any other interests, including but not limited to any associated or subsidiary companies involved in the work.

(3) Automobile liability insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the CONTRACTOR at the site of the project or in any way connected with the work which is the subject of this agreement.

The limit of liability under the Commercial general liability and automobile liability policies will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence, project specific. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$2,000,000, project specific. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

(4) Contractors Pollution Liability in the amount of \$1,000,000 Per Loss, \$2,000,000 Annual Aggregate, project specific. Such coverage will include bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arise from the operations of the contractor including transportation and spillage. Coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date equal to at least the first date of this Contract and with a three year reporting option beyond the Annual expiration date of the policy.)

**ALL LIABILITY INSURANCE POLICIES SHALL NAME THE CITY AS AN ADDITIONAL INSURED.**

Unless specifically waived hereafter in writing by the Risk Manager, Contractor agrees that the insurer shall waive its rights of subrogation, if any, against the County on each of the foregoing types of required insurance coverage.

Loss Deductible Clause: The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor or sub-contractor providing such insurance.

(b) Proof of Insurance. Contractor will furnish proof of insurance acceptable to the Risk Manager for the City prior to or at the time of execution of this Contract. Contractor will not commence work until all proof of such insurance has been filed with

and approved by the Risk Manager. Contractor will furnish evidence of all required insurance in the form of certificate of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, the expiration dates, and will contain the following language as to cancellation:

"In the event of cancellation of this policy by the insurer or any insured, this Company will give not less than 30 days advance written notice to:

Risk Manager  
The City of Daytona Beach  
P.O. Box 2451  
Daytona Beach, Florida 32115-2451

If requested by Risk Manager, Contractor will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the Risk Manager.

(c) Replacement Required. Contractor will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the work by the City. If such insurance will lapse, the City expressly reserves the right to renew the insurance at Contractor's expense.

(d) Termination of Insurance. Contractor may not cancel the insurance required by this Contract until the work is completed, accepted by the City, and Contractor has received written notification from the Risk Management Division of the City that Contractor may cancel the insurance required by this Contract and the date upon which the insurance may be cancelled. The Risk Manager for the City will provide such written notification at the request of Contractor if the request is made no earlier than two weeks before the work is to be completed.

**Section 15. Notices.** Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, transmitted to a receiving fax machine followed by hard copy within two days, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

To the City: James V. Chisholm  
City Manager  
301 So. Ridgewood Ave.  
Daytona Beach, FL 32114  
(fax) 386 671-8015

To Contractor: Jason Sanders,  
Emergency Operations  
D & J Enterprises, Inc.  
3495 Lee Road 10  
Auburn, AL 63832  
(334) 821-5227



w/copy to: James R. Sloane, Deputy Public Works Director/City Engineer  
950 S. Bellevue Ave.  
Daytona Beach, FL 32114

Either Party may change the person or address designated for receipt of the Party's notices, by providing written notice to the other Party.

**Section 16. Designated Representatives.** The persons required to receive notice on behalf of a Party pursuant to Section 15 are that Party's Designated Representative for purposes of this Contract. All references in the Contract Documents to the City's "Public Works Director," "Support Services Director," or to the City's "authorized representative," are amended to refer to the City's Designated Representative.

**Section 17. Relationship between Parties.** This Contract does not create an employee-employer relationship between the City and the Contractor. The Contractor is an independent contractor of the City and will be in control of the means and the method in which the requested work is performed. As an independent contractor, the Contractor will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract; and the Contractor agrees to indemnify and hold harmless the City from any obligations relating to such taxes. The City will not make deductions from payments due, for such taxes, or for social security, unemployment insurance worker's compensation, or other employment or payroll taxes.

**Section 18. Termination.**

(a) The City may, by written notice to the Contractor, terminate this Contract or any purchase order issued hereunder, in whole or in part, at any time, either for the City's convenience or because of the failure of the Contractor to fulfill its contractual obligations. Upon receipt of notice, the Contractor shall immediately discontinue all services affected, unless the notice directs otherwise, and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and services of whatever type or nature as may have been accumulated by the Contractor in performing this Contract, whether completed or in process.

(b) If the termination is for the City's convenience, Contractor shall be paid compensation for services performed to the date of termination.

(c) If the termination is due to the failure of the Contractor to fulfill its contractual obligations, the City may take over the work and prosecute the same to completion by other agreements or otherwise. In such case, the Contractor shall be liable to the City for all reasonable additional costs occasioned to the City thereby, unless the failure is due solely to a force majeure event as defined in this Contract.

(d) If after notice of termination for the Contractor's failure to fulfill contractual obligations it is determined that the Contractor had not so failed, the termination shall be conclusively deemed to have been effected for the City's convenience. In such event,

adjustment in payment to the Contractor shall be made as provided in subsection (b) of this Section.

(e) The rights and remedies of City provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

**Section 19. Limitation on Waivers.** Neither the City's review, approval, or acceptance of, or payment for, any of the services provided by the Contractor, shall be construed to operate as a waiver of the City's rights under this Contract. Contractor shall be and always remain liable to the City in accordance with applicable law or any and all damages to the City caused by the Contractor's negligent or wrongful provision of any of the services furnished under this Contract.

Failure of the City to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the City at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the City's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

**Section 20. Sovereign Immunity.** The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract will be deemed as a waiver of immunity of limits of liability of the City beyond any statutory limited waiver or immunity of limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort, equity or contract shall not exceed the dollar amount set by the legislature for tort. Nothing in this section shall be deemed to relieve the City from paying for services rendered by Respondent. Nothing in this Contract shall inure to the benefit on any third party for the purpose of allowing any claim against the City, which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

#### **Section 21. General Terms and Conditions**

(a) **Amendments.** Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

(b) **Assignments and Subcontracting.** No assignment or subcontracting will be permitted without the City's written approval.

(c) **Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, Contractor will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect

and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Contract and will entitle the City to terminate this Contract immediately upon delivery of written notice of termination to the Contractor.

(d) Truth in Negotiations Certificate. Contractor hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

(e) No Third Party Beneficiaries. There are no third party beneficiaries of Contractor's services under this Contract.

(f) Contingency Fee. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(g) Nondiscrimination. Contractor will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their sex, race, creed, color, or national origin. Further, the Contractor agrees to comply with all local, state and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, the Contractor agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

(h) Principles in Construing Contract. This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate.

(i) Venue. The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

(j) Litigation Costs. In case of litigation between the Parties concerning this Contract, each party will bear all of its litigation costs, including except where specifically provided otherwise attorney's fees.

(k) Force Majeure. A force majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, or freight embargo; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event shall promptly notify the other Party of the Event and shall use its best efforts to minimize any resulting delay.

(l) Jury Trial Waived. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

(m) Authority to Bind Contractor. The undersigned representative of Contractor represents and warrants that he or she is fully authorized to bind Contractor to the terms and conditions of this Contract.

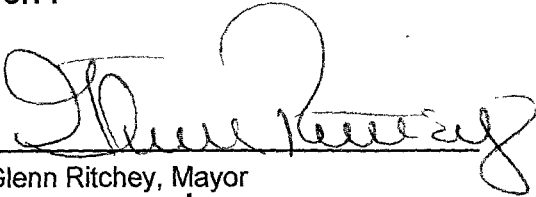
(n) Integration. This Contract represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

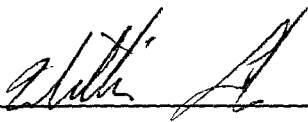
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IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

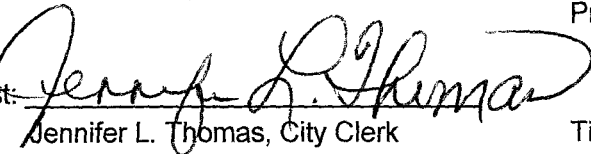
**THE CITY**

**CONTRACTOR**

By:   
Glenn Ritchey, Mayor

By: 

Printed Name: William Lipe

Attest:   
Jennifer L. Thomas, City Clerk

Title: Office Engineer

Date: November 8, 2012

Date: 8-28-12

Approved as to legal form:

By: 