WINTER HAVEN
THE CHAIN OF LAKES CITY

CITY COMMISSION MEETING

DATE: Monday, September 22, 2025, 6:00 p.m.

LOCATION: City Hall - John Fuller Auditorium
451 Third Street NW
Winter Haven, FL 33881

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1. CALL TO ORDER - Nathaniel J. Birdsong, Jr., Mayor

2. ROLL CALL - Vanessa Castillo, MMC, City Clerk

3. INVOCATION - Minister Abdul Al-khatib, First Missionary Baptist Church

4. PLEDGE OF ALLEGIANCE - Winter Haven Montessori School Students

5. PRESENTATIONS

5.A **"Constitution Week" Proclamation - Laura Stokes, Regent - Ponce de Leon Chapter, National Society Daughters of the American Revolution (NSDAR)**

Staff Contact: *LaTonya Harris, CMC, FCRM, City Historian & Archivist | Deputy City Clerk , lharris@mywinterhaven.com*

Proclamation

5.B **"National Hispanic Heritage Month" Proclamation - Employee Engagement and Relationship Committee**

Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

Proclamation

6. DEVELOPMENTS OF NOTE

7. MINUTES

7.A **August 25, 2025, Regular City Commission Meeting Minutes**

Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

2025-08-25 DRAFT Regular City Commission Meeting Minutes with Link

7.B **September 3 2025, City Commission Agenda Review Session Minutes**

Staff Contact: *Vanessa Castillo, MMC, City Clerk, vcastillo@mywinterhaven.com*

2025-09-03 DRAFT Agenda Review Session Minutes with Link

8. MAYOR'S STATEMENT

8.A Mayor's Statement

Staff Contact: *Colleen "CJ" Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Mayor's Statement FY2025

9. ORDINANCE(S) - SECOND READING - PUBLIC HEARING ON AD VALOREM TAX MILLAGE RATE AND FISCAL YEAR 2025-2026 BUDGET

9.A O-25-28 Adopting the Millage Rate for Fiscal Year 2025-2026

Staff Contact: *CJ Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Summary - Ordinance O-25-28
O-25-28

9.B O-25-29 Adopting the Budget for Fiscal Year 2025-2026

Staff Contact: *CJ Scott, Chief Financial Officer, cjscott@mywinterhaven.com*

Summary - Ordinance O-25-29
O-25-29

10. COMMENTS FROM THE AUDIENCE

11. ORDINANCE(S) - SECOND READING - PUBLIC HEARING

12. CONSENT AGENDA

12.A Water Department Payment Portal (Smart Energy Water) (SEW)

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Water Department Payment Portal Smart Energy Water SEW
Contract Addendum SEW (portal)
Winter Haven Order form SEW
Contract Addendum iPaySmart (payments)

12.B Water Department – Datamatx Printing and Mailing Services

Staff Contact: *Gary M. Hubbard, Water Department Director, ghubbard@mywinterhaven.com*

Summary - Water Department Printing and Mailing Datamatx
Datamatx Agreement - Signed
Datamatx Coercion for Labor and Services Affidavit

12.C Approval of Settlement Agreements with Purdue Pharma L.P. and the Sackler Family; and Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, Sun, and Zuduss regarding Opioid Litigation

Staff Contact: *Charlie Bird, Assistant City Manager - Public Safety , cbird@mywinterhaven.com*

Summary - Opioid Settlement Agreements

12.D Memorandum of Understanding for Delivery of Emergency Medical Services

Staff Contact: *Drew Neubrand, Fire Chief, dneubrand@mywinterhaven.com*

Summary - ALS MOU Sept 2025
MOU for Delivery of Emergency Medical Services

12.E **Cultural Arts Committee Seat Appointments**

Staff Contact: *Natalie Wilson, Special Events & Initiatives Coordinator, nwilson@mywinterhaven.com*

Summary - Cultural Arts Advisory Committee - Seat Recommendations
CAAC Application - Shawntise Brown
Reappointment Letter - Zac Marius
CAAC Application - Tabitha Keith

12.F **Neighborhood Service Center Lease Renewal**

Staff Contact: *Scott Eilers, Parks, Recreation and Culture Assistant Department Director, seilers@mywinterhaven.com*

Summary - Neighborhood Service Center Lease
Neighborhood Service Center Lease Agreement

12.G **Police Benevolent Association (PBA) Collective Bargaining Agreement (CBA) - Addendum A**

Staff Contact: *Shawn Dykes, Human Resources Director, sdykes@mywinterhaven.com*

Summary - Police Benevolent Association Collective Bargaining Agreement - Addendum A
2025 Memorandum of Understanding - PBA COWH
Exhibit A - Wages for 2025-2026
WHPD CBA 2024-2027 with 2025-2026 Re-Openers

12.H **Authorization for Travel and Training - Florida League of Cities (FLC) Board Meetings (Yates)**

Staff Contact: *Amanda-Jo Nicholson, Assistant to the City Manager, anicholson@mywinterhaven.com*

Summary - 2025-2026 FLC Board Meetings
2025 - 2026 Board meeting dates
Appointment to FLC Board - Mayor Pro Tem Yates

12.I **Authorization for Travel and Training - Florida League of Cities (FLC) Legislative Meeting (Stavres)**

Staff Contact: *Amanda-Jo Nicholson, Assistant to the City Manager, anicholson@mywinterhaven.com*

Summary - Sept 2025 FLC Meeting

12.J **Emergency Rental of four (4) Solid Waste Vehicles from RDK Truck Rentals**

Staff Contact: *Brittany Hart, Public Works Director, bhart@mywinterhaven.com*

Summary - Emergency Rental of four 4 Solid Waste Vehicles from RDK Truck Rentals
Emergency Purchase Justification and quotes- RDK Truck Rentals

13. RESOLUTION(S)

13.A **R-25-48 - Updating the Grant and Aid Application Review Committee and Related Provisions**

Staff Contact: *Katrina Hill, Director of Public Affairs & Communication, khill@mywinterhaven.com*

Summary - R-25-48 Updating the Grant and Aid Application Review Committee and Related Provisions
R-25-48 - Updating the Grant and Aid Application Review Committee and Related Provisions

14. ORDINANCE(S) - FIRST READING

15. NEW BUSINESS

15.A **Contribution Agreement with Southeastern University**

Staff Contact: *Eric Labbe, Economic Opportunity and Community Investment Director, elabbe@mywinterhaven.com*

Summary - SEU Contribution Agreement
Contribution Agreement

16. CITY COMMISSIONERS/LIAISON REPORTS

17. CITY ATTORNEY REPORT

18. CITY MANAGER REPORT

19. DEPUTY CITY MANAGER REPORT

20. CITY CLERK REPORT

21. EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA

22. ADJOURNMENT

If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the Americans with Disabilities Act and Florida Statutes, Section 286.26, persons with disabilities needing special accommodations to participate in this proceeding, should contact the City Clerk's Office, 451 Third Street, NW, Winter Haven, Florida 33881, in writing, not later than 48 hours prior to the proceeding; if not in writing, then not later than four (4) days prior to the proceeding at (863) 291-5600. Vision or hearing impaired please call (800) 955-8771 for assistance.

WINTER HAVEN
THE CHAIN OF LAKES CITY

Proclamation

WHEREAS, September 17, 2025, marks the 238th anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation and the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as *Constitution Week.*

NOW, THEREFORE, I, Nathaniel J. Birdsong, Jr., Mayor of the City of Winter Haven, Florida, do hereby proclaim September 17 through September 23, 2025, as

"Constitution Week"

in the City of Winter Haven, Florida, and ask our citizens to reaffirm the ideals that the Framers of the Constitution had in 1787.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Winter Haven, Florida, to be affixed this 22nd day of September, 2025.



Nathaniel J. Birdsong Jr.
Nathaniel J. Birdsong Jr., Mayor

ATTEST:
Vanessa Castillo
Vanessa Castillo, MMC, City Clerk

WINTER HAVEN
THE CHAIN OF LAKES CITY

Proclamation

WHEREAS, the theme for *Hispanic Heritage Month 2025* is "*Collective Heritage: Honoring the Past, Inspiring the Future*". This theme emphasizes celebrating the rich cultural traditions and historical journeys of Hispanic and Latin American communities while simultaneously looking ahead to the future contributions and innovation of these communities; and

WHEREAS, on September 17, 1967, President Lyndon B. Johnson signed into law the *National Hispanic Heritage Week* Bill, which authorized the President to designate the week of September 15th as *National Hispanic Heritage Week*, which was first observed in 1968. In 1998, President Ronald W. Reagan signed into law the creation of *National Hispanic Heritage Month*; and

WHEREAS, from America's earliest days, Hispanic Americans have played a prominent and important role in our national heritage. *National Hispanic Heritage Month* is an opportunity to celebrate the rich cultural traditions and recognize and honor the significant achievements of U.S. Hispanic communities, which have influenced American culture and enriched the fabric of our society. Hispanic and Latin American people can trace their roots to Mexico, Central America, South America and the Caribbean, consisting of Puerto Rico, Cuba, the Dominican Republic and smaller Spanish-speaking islands; and

WHEREAS, Hispanic Americans are the largest minority group in the United States today. Generations of Hispanic Americans have consistently helped make our country strong and prosperous and embody the best of American values, including commitment to faith, family, and country. They serve with honor in all branches of the Armed Forces, continuing a strong legacy, and lift up their communities and the economy as entrepreneurs, executives, and small business owners and make contributions in areas of science, art, music, politics, academia, government and sports; and

WHEREAS, the Hispanic American community has left an indelible mark on our government, culture, and economy. They continue to embody the pioneering spirit of America today.

NOW, THEREFORE, I, Nathaniel J. Birdsong, Jr., Mayor of the City of Winter Haven, Florida, do hereby proclaim September 15 through October 15, 2025 as

"National Hispanic Heritage Month"

in the City of Winter Haven and in its continued effort for diversity and inclusivity, urge all citizens to honor and celebrate the contributions and achievements of Hispanic Americans in our nation's history and in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Winter Haven, Florida, to be affixed this 22nd day of September, 2025.



Nathaniel J. Birdsong, Jr.
Nathaniel J. Birdsong, Jr., Mayor

ATTEST:
Vanessa Castillo
Vanessa Castillo, MMC, City Clerk

WINTER HAVEN
THE CHAIN OF LAKES CITY

REGULAR CITY COMMISSION MEETING MINUTES

DATE: Monday, August 25, 2025 6:00 p.m.

LOCATION: City Hall – John Fuller Auditorium
451 Third Street NW, Winter Haven, FL 33881

NOTE:
PowerPoint slides of certain agenda items were also presented during this meeting. Link to PowerPoint here: https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:19f18119-c332-47e7-8075-afc805d59193?viewer%21megaVerb=group-discover
A hard copy of the PowerPoint will be attached to the original signed minutes.

1. **CALL TO ORDER** - Mayor Birdsong called the regular meeting to order at 6:00 p.m.

2. **ROLL CALL** - Vanessa Castillo, MMC, City Clerk

Commissioners Present: Mayor Nathaniel Birdsong; Pro Tem Brian Yates; Commissioner Brad Dantzler; Commissioner Tracy Mercer; and Commissioner Clifton Dollison.

Staff Present: City Manager T. Michael Stavres; Deputy City Manager Michael "M.J." Carnevale; City Attorney John Murphy; City Clerk Vanessa Castillo; Assistant City Manager for Public Safety Charlie Bird; Human Resources Director Shawn Dykes; Economic Opportunity and Community Investment Director Eric Labbe; Winter Haven Water Director Gary Hubbard; Public Affairs and Communications Director Katrina Hill; Chief Financial Officer Colleen "C.J." Scott; Safe Neighborhoods Director Tanya Ayers; Public Works Director Brittany Hart; Police Chief Vance Monroe; and Fire Chief Drew Neubrand.

3. **INVOCATION** – Pastor Danny Bennett, St. John's United Methodist Church

4. **PLEDGE OF ALLEGIANCE** – Vanessa Castillo, MMC, City Clerk

5. **PRESENTATION(S)**

A. Recognition of the 2025 Certified Public Manager (CPM) Program Graduates

City Manager Stavres said that the Certified Public Manager (CPM) program was a nationally recognized leadership development program for public managers and supervisors, offered in 42 states and by the federal government. Florida State University has hosted one of the oldest programs since 1979. It included 31 days of classroom instruction, homework, and open-book exams across eight levels, typically taking about two years to complete. The City had participated since the early 2000s, with staff joining cohorts made up of peers from across Polk County, including other municipalities, state agencies, and the Sheriff's Office. This collaboration provided valuable learning opportunities. Most recently, Winter Haven's latest cohort graduated last Thursday in a ceremony at Hillsborough Community College in Plant City.

Lastly, City Manager Stavres and Deputy City Manager Carnevale recognized the newly certified employees with plaques to represent their completion of the program.

6. **DEVELOPMENTS OF NOTE** – None

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7. MINUTES

A. August 6, 2025, Special City Commission Meeting Minutes (Utility Budget Workshop)

B. August 6, 2025, City Commission Agenda Review Session Minutes

C. August 11, 2025, Regular City Commission Meeting Minutes

Motion by Mayor Pro Tem Yates to approve the minutes as presented.

Mayor Birdsong stated that anyone wishing to speak to the minutes could make comments now by coming to the podium and stating their name and address for the record and make comments. No one spoke for or against.

Motion carried 5:0.

8. COMMENTS FROM THE AUDIENCE

Marcela Stanislaus, 364 Pasco Court in Winter Haven and representing the Polk County Voters League, reported that voter turnout numbers for 2023 elections in Polk County were very low. She discussed a "Vote Local on November 4th" campaign launched by local organizations to improve participation in more detail.

Linda Fife, 3691 Plymouth Drive in Winter Haven and Vice President of the Traditions Community who also served on the Regional Community Council representing 13 communities along the Thompson Nursery Road widening project, expressed that the current state funding only covered Highway 17 to West Lake Ruby Drive, leaving the critical connection to Highway 27 unfunded. She expressed they had major concerns with new businesses for 2026, the addition of 1,000 homes, traffic congestion and safety at key intersections near Traditions. She urged Mayor Birdsong, Mayor Pro Tem Yates, and Alternate Commissioner Mercer liaisons to the Polk Transportation Planning Organization (TPO) to secure full funding and a plan for traffic signals from state and federal partners to support the rapidly growing area.

9. ORDINANCE(S) – SECOND READING – PUBLIC HEARING - None

10. CONSENT AGENDA

A. Florida Department of Environmental Protection (FDEP), LPA0441 Grant, Amendment #1

B. ITB-25-31 - Award of AMI Infrastructure Installation Services, Re-Bid

C. ITB-25-32 - Award of Utility Extensions to Winter Haven Water Administration Facility

D. Reclaim Bypass to WWTP#2 - Phase 2 and 3 Material Purchase

E. Authorization of Travel & Training – Florida League of Cities FLC) Legislative Policy Committee Meetings (Birdsong, Yates, Dantzler, Dollison, Mercer)

F. South Lake Howard Nature Park Expansion – Guaranteed Maximum Price Construction – Phase II Amendment

G. Design-Build Contract, Guaranteed Maximum Price (GMP) with Whitehead Construction Inc. – Construction Phase for Motor Pool Road and Pedestrian Connectivity Elements (RFQ-22-03)

H. State Housing Initiatives Partnership (S.H.I.P) Annual Report

Motion by Mayor Pro Tem Yates to approve the Consent Agenda as presented.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to the Consent Agenda could come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

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11. RESOLUTION(S)

A. R-25-41 – Approval of Asset Management Plan for the City's Wastewater Utility System

City Attorney Murphy read Resolution R-25-41 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Resolution R-25-41.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Resolution may come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

B. R-25-42 – Certification of Code Compliance Special Assessments for the 2025 Tax Roll

City Attorney Murphy read Resolution R-25-42 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Resolution R-25-42.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Resolution may come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

C. R-25-43 - Adopting the 2025 Polk County Multi-Jurisdictional Local Mitigation Strategy (LMS)

City Attorney Murphy read Resolution R-25-43 by title only. City Manager Stavres presented and noted that

Motion by Commissioner Mercer to approve Resolution R-25-43.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Resolution may come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

D. R-25-44 – Renewal of Statewide Mutual Aid Agreement

City Attorney Murphy read Resolution R-25-44 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Resolution R-25-44.

Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Resolution may come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

E. R-25-45 – Administrative Plat Approval Policy

City Attorney Murphy read Resolution R-25-45 by title only and City Manager Stavres presented.

Motion by Commissioner Mercer to approve Resolution R-25-45.

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Mayor Birdsong closed the Regular City Commission Meeting and opened a Public Hearing stating anyone wishing to speak to this Resolution may come to the podium and state their name and address for the record. No one spoke for or against.

Mayor Birdsong closed the Public Hearing and reopened the Regular Commission Meeting.

Motion carried 5:0.

12. ORDINANCE(S) - FIRST READING – None

13. NEW BUSINESS– None

14. CITY COMMISSIONERS/LIAISON REPORTS

Commissioner Dantzler reported the following: was out of town so he thanked the other Commissioners for covering for him while he was out of town; attended the CityU [first session] and said there was another good class and that he was very pleased with how [CityU] had come together; and that his term on the Polk County Tourist Development Council (TDC) had expired due to term limits so he asked which Commissioner would be interested in taking his place. **Mayor Pro Tem Yates agreed to serve.** Lastly, he reported that he would not be running for re-election for this upcoming term.

Commissioner Mercer reported the following: attended the Greater Winter Haven Chamber of Commerce *BBQ in the Breezeway* Member Appreciation Event; attended the Polk County Legislative Delegation Public Meeting at the AdventHealth FieldHouse and Conference Center; attended the Florida League of Cities (FLC) Annual Conference [in Orlando]; and attended the first CityU Session where the sessions were always great.

Commissioner Dollison reported the following: said it was an honor to have sat next to and worked with Commissioner Dantzler and that he had a great admiration and appreciation for him. He also attended the Polk County Delegation Public Meeting, which was very informative; attended the FLC Annual Conference and mentioned that the Department of Government Efficiency (DOGE) session was interesting; attended the Chamber Monthly Membership Luncheon featuring Tampa Electric (TECO) [regarding their Storm Protection Plan]; had a sneak peek of the Winter Haven Recreation and Cultural Center (WHRCC) which was still under construction and would be a wonderful addition to the City and its citizens and a great step forward to unite the community. He also announced that he would be seeking re-election to serve on the Commission for a full term.

Mayor Pro Tem Yates reported the following: attended the FLC Annual Conference which was highly informative and the ability to have conversations with other local elected officials was appreciated; and thanked Commissioner Dantzler for his 13 years of great service and that it was an honor to serve with him. Lastly, he had been elected to the FLC Board of Directors which he looked forward to serving on and would hopefully speak for the City in all of those meetings.

Mayor Birdsong congratulated Mayor Pro Tem Yates and said he knew that he would do a good job. He also reported the following: attended the FLC Annual Conference and said that the tax initiative was encouraged which the FLC said would come back and once the Legislature was back in session; attended the Chamber TECO Monthly Membership Luncheon, which was a good program and spoke on how they assisted with a recent power outage in his neighborhood; attended a Florida Regional Council Association (FRCA) Meeting and said that if one of the inactive regional advisory councils, put into place by the State Legislature, voted to disband, it would affect all of the remaining councils so they were going to try to start again. Lastly, he expressed that it had been a pleasure to serve with Commission Dantzler and said they all appreciated him.

15. CITY ATTORNEY REPORT

A. Discussion Regarding Senate Bill 180 Legal Challenge

City Attorney Murphy presented this item as detailed in the summary sheet and noted this item was pursuant to the Commission's consensus at the Wednesday, August 20, 2025, Agenda Review Session.

Discussion ensued regarding a possible filing of a "glitch bill" for legislation to fix the problems, if the City would be exempt or not from following the rules of Senate Bill 180 if we decided not to move forward and be a plaintiff in the proposed legal challenge, different avenues of relief that could possibly be sought, if the City would be affected if it was not a party in the litigation, possible filing deadlines, how many other governmental agencies were interested in joining the lawsuit so far, if any other law firms had started a class-action suit such as this one or not, the likelihood of other lawsuits pending, attacks on home rule, DOGE items, the potential for possible/perceived retaliation, and the City needing to be prepared in the event it wanted to move forward.

There was consensus of the City Commission to direct the City Attorney to prepare a Resolution specific to the City of Winter Haven regarding the City's participation in a potential legal challenge to SB 180 for the City Commission's further discussion and consideration at its September 10, 2025 Regular Meeting.

16. **CITY MANAGER REPORT** – None

17. **DEPUTY CITY MANAGER REPORT** – None

18. **CITY CLERK REPORT** – None

19. **EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA** – None

20. **ADJOURNMENT** – 7:42 p.m.

ATTEST:

Vanessa Castillo, MMC
City Clerk

CITY OF WINTER HAVEN, FLORIDA

Nathaniel J. Birdsong, Jr.
Mayor

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WINTER HAVEN
THE CHAIN OF LAKES CITY

CITY COMMISSION AGENDA REVIEW SESSION MINUTES

DATE: Wednesday, September 3, 2025, 5:30 p.m.

LOCATION: City Hall – John Fuller Auditorium
451 Third Street NW, Winter Haven, FL 33881

NOTE:
PowerPoint slides of certain agenda items were also presented during this meeting. Link to PowerPoint here:
https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:bbcd58ee-63ae-42f1-9eba-0484591bf194
A hard copy of the PowerPoint will be attached to the original signed minutes.

1. CALL TO ORDER - Mayor Birdsong called the meeting to order at 5:30 p.m.

2. ROLL CALL – Vanessa Castillo, MMC, City Clerk

Commissioners Present: Mayor Nathaniel J. Birdsong, Jr.; Mayor Pro Tem Brian Yates; Commissioner Bradley T. Dantzler; Commissioner Tracy Mercer; and Commissioner Clifton E. Dollison.

Staff Present: City Manager T. Michael Stavres; Deputy City Manager Michael "M.J." Carnevale; City Attorney John Murphy; City Clerk Vanessa Castillo; Assistant City Manager for Public Safety Charlie Bird; Smart City Officer Hiep Nguyen; Economic Opportunity and Community Investment Director Eric Labbe; Winter Haven Water Director Gary Hubbard; Public Affairs and Communications Director Katrina Hill; Chief Financial Officer Colleen "C.J." Scott; Public Works Director Brittany Hart; Winter Haven Regional Airport Director Troy Heidel; Police Chief Vance Monroe; Fire Chief Drew Neubrand; and Parks, Recreation and Culture Director Julie Adams.

5. PRESENTATION(S)

City Manager Stavres said items 5A and 5B would be presented at the end of the meeting.

(NOTE: Items 5A and 5B were discussed after Agenda Item 15C)

A. * AGENDA REVIEW ONLY *** Theatre Winter Haven / Ritz Theatre Update – Dan Chesnicka, Executive Director & Julie Adams, Parks, Recreation and Culture Director**

Dan Chesnika gave a *Theatre Winter Haven - The Ritz - State of the Theatre in 10 Minutes or Less* PowerPoint presentation *(see link/attached)* and explained the slides in more detail.

(Commissioner Dollison left at the end of the meeting at 6:52 p.m.)

B. * AGENDA REVIEW ONLY *** Strategic Plan Presentation: Economic Sustainability**

Deputy City Manager Carnevale gave an introduction to this item.

Procurement Manager Bethany Owen gave a PowerPoint presentation *(see link/attached)* regarding procurement outreach and interface changes and explained the slides in more detail.

Economic Opportunity and Community Investment Director Labbe gave a PowerPoint presentation *(see link/attached)* regarding retail strategies launch, ILC updates, non-residential projects, and explained the slides in more detail.

Mayor Pro Tem Yates asked if businesses already using the platform had been engaged as spokespeople or included in marketing campaigns. Director Labbe explained that while this hasn't been done, it was possible. The retail strategies

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platform allows for uploading custom videos, which means businesses could provide testimonial videos highlighting their experiences. These could then be featured on the platform's homepage to showcase success stories and increase visibility.

Mayor Pro Tem Yates inquired if there were outparcels associated with the new Target [store] site on U.S. Highway 17. Director Labbe said there were two and pointed them out on the slide.

City Attorney Murphy gave a PowerPoint presentation *(see link/attached)* regarding legislative changes and explained the slides in more detail.

Deputy City Manager Carnevale said the City was working to make it easier for businesses to work with us, supporting small businesses through new retail strategies, and welcoming exciting new developments like Publix, Target, and 7-Eleven that would bring more destinations into neighborhoods. Staff was also keeping a close eye on legislative changes and responding quickly to protect the community. The next pillar update regarding Responsible Government would take place at the Wednesday, October 8, 2025, City Commission Agenda Review Session Meeting.

6. DEVELOPMENTS OF NOTE - None

7. MINUTES - None

8. MAYOR'S STATEMENT

A. Mayor's Statement

City Manager Stavres said the Mayor would need to read this at the September 10, 2025, Regular City Commission Meeting.

There were no questions or discussion.

9. ORDINANCE(S) – SECOND READING – PUBLIC HEARING ON AS VALOREM TAX MILLAGE RATE AND FISCAL YEAR BUDGET 2025-2026 BUDGET

A. O-25-28 - Adopting the Millage Rate for Fiscal Year 2025-2026

B. O-25-29 - Adopting the Budget for Fiscal Year 2025-2026

City Manager Stavres gave an overview of items 9A and 9B.

There were no questions or discussion.

10. COMMENTS FROM THE AUDIENCE

11. ORDINANCE(S) – SECOND READING – PUBLIC HEARING - None

12. CONSENT AGENDA

A. Approval of Task Order No. 24 with Hanson Professional Services, Inc. for the Airport Master Plan Update

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

B. Invitation to Bid ITB-25-25 – Award of Airport Backup Generators Installation and Beacon Replacement

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

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C. Approval of Scope Proposal and Contract for Request for Qualifications RFQ 25-15: Design-Build Services for DiamondPlex Softball Improvements & Pickleball Complex

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

D. Winter Haven Tennis Center Hurricane Milton Related Shade Structure Repair

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

E. General Contractor (Invitation to Bid ITB 23-48) Whitehead Construction Change Order

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

F. Renewal of Software Subscription for ZenCity

City Manager Stavres gave an overview of this item.

Commissioners raised questions about the value of social media monitoring and whether it truly reflects community engagement. Public Affairs and Communications Director Hill and City Manager Stavres explained that the tool went far beyond Facebook, capturing public comments and sentiment from a wide range of sources. This helped the City identify concerns, monitor public perception, and address misinformation quickly.

Director Hill noted that many were using ZenCity, which was a leader amongst local government in this type of space. City Manager Stavres agreed and said that through the International City/County Management Association (ICMA), Florida City and County Management Association (FCCMA) and the Florida League of Cities (FLC), it was one of the top providers of this service that could be found and was well respected in Florida, so he had confidence in them.

Mayor Pro Tem Yates, Commissioners Dantzler, and Commissioner Dollison commended staff for actively engaging with residents online, though they also cautioned about not relying solely on social media as a barometer of public opinion. Overall, the tool provided valuable insights and benchmarking while staff remain committed to balancing online feedback with in-person conversations. Discussion ensued.

G. Florida Department of Environmental Protection (FDEP), LPA0444 Grant, Amendment #1

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

H. Invitation to Bid ITB-25-34 – Award of Logistics Parkway/Pollard Road Extension – Phase I Construction

City Manager Stavres gave an overview of this item.

Commissioner Dollison asked about the length of [Pollard] Road. City Manager Stavres said this would be provided before the September 10, 2025, Regular City Commission Meeting and that it was just a dirt road now, but it would become a major game changer and ultimately have some tie into Thompson Nursery Road.

I. Request for Qualifications RFQ-25-33 – Award of Design Criteria Package & Owner's Representative Professional Services for the Winter Haven Water Administration Facility

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

J. Wastewater Treatment Plant # 2, Reclaim Water Ground Storage Tank Recoating

City Manager Stavres gave an overview of this item.

There were no questions or discussion.

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K. East Winter Haven Aquifer Recharge at Bradco: Managed Aquifer Recharge Well (Invitation to Bid ITB-24-28)

City Manager Stavres gave an overview of this item.

Mayor Birdsong asked about plans for a well at the site to access the lower Floridan aquifer. Water Director Hubbard explained that current permits allowed for two types of injection wells, upper and lower Floridan, intended only for aquifer recharge, not for drawing water. Monitoring wells would also be installed to track impacts. Additionally, the City's contractor, RES Environmental Operating Company, would bring in a $1.5 million grant from Coca-Cola to help support the project. Discussion ensued.

L. East Winter Haven Aquifer Recharge Well at Bradco, Access Road (UP-23-38)

City Manager Stavres gave an overview of this item. Winter Haven Water Director Hubbard explained further and noted that negotiations began at over $300,000 for this work but resulted in a more favorable outcome with the cost of the work.

City Attorney Murphy noted that an amendment to the interim agreement, including adjustments for adding properties in the northwest are of this site as well as this work, would be brought back to the Commission for review and approval.

Mayor Birdsong asked about the construction of the road. Director Hubbard confirmed that staff will begin clearing for the road next week, with drilling expected to start by late November 2025.

M. 2025 Municipal Election Administration Agreement between the Supervisor of Elections of Polk County and the City of Winter Haven

City Manager Stavres gave an overview of this item and noted that there were additional costs pertaining to the election.

There were no questions or discussion.

N. City Commission Recording System Modernization

City Manager Stavres gave an overview of this item and noted that he was going to explore potential upgrades to the chambers over the next one to two years, focusing on technology, layout, and seating to better engage citizens and address safety concerns. The goal is to modernize the space, with the recent improvements in recording for public records noted as an important first step.

There were no questions or discussion.

13. RESOLUTION(S)

A. R-25-46 – Request by KRPC Willowbrook, LLC to accept a portion of the improvements, infrastructure, and dedications in favor of the City of Winter Haven and modify the Performance Bond submitted to the City to ensure completion of the additional required improvements for the Willowbrook South Subdivision

City Manager Stavres gave an overview of this item.

Mayor Birdsong asked if the blue line was in the canal. City Manager Stavres said that it was south of the canal.

Mayor Birdsong, Mayor Pro Tem Yates and Commissioner Dantzler discussed traffic and development concerns related to this project.

Economic Opportunity and Community Investment Director Labbe said that Martin Luther King, Jr. Boulevard was not failing and that there was still capacity on Martin Luther King, Jr. Boulevard with recent resurfacing completed by Polk County. Much of the green space shown in the plans would become stormwater ponds due to the site's location between two lakes, while the lots themselves were standard 50-foot sizes.

Commissioners expressed concern about traffic impacts and the density of homes once the development is built out.

DRAFT

B. R-25-47 – Authorize participation in proposed litigation challenging Senate Bill 180 Challenge

City Manager Stavres gave an overview of this item and suggested that it could be in the City's best interest to hold off for now and see what happened with any glitch bill to address SB 180 going forward. He added that while Winter Haven may not take the lead on a potential lawsuit related to state legislation, the City could still benefit from the outcome if enough other cities participate. Lastly, that there had been talk of a possible "glitch bill," however, nothing had been filed yet.

City Attorney Murphy said it was too early for him to opine on what the effect of a finding of unconstitutionality as applied in a specific community would be for the City if the City were not a party to the lawsuit which he clarified further. He explained that if the City did not join the lawsuit, the City may not be guaranteed the same legal relief as participating cities, since court rulings could apply only to parties involved. He noted that he understood about 10 local governments were participating and that a lawsuit was being prepared to be filed by mid-September, 2025 and that there would likely be an opportunity for the City to join the lawsuit as a plaintiff later if it desired to. He emphasized this was a Commission decision and cautioned that this case is different from the Form 1/Form 6 prior litigation that benefited all cities without direct participation. City Attorney Murphy added that the core issue of the litigation was the erosion of home rule authority, seen as an attack on local government powers. Current and potential lawsuits, such as in Manatee, Orange, and Osceola Counties, focus on restrictions from Senate Bill 180, including challenging recently adopted impact fees by those local governments. The matter continued to generate discussion as it evolved.

Discussion ensued regarding who the lawsuits would potentially relieve, precedence, court rulings, potential lawsuits, challenges, and the possible repercussions for municipalities.

There was consensus of the Commission to pull Item 13B *R-25-47 – Authorize participation in proposed litigation challenging Senate Bill 180 Challenge* from the September 10, 2025, Regular City Commission Meeting agenda.

14. ORDINANCE(S) - FIRST READING - None

15. NEW BUSINESS

A. Florida Commerce Infrastructure Repair Program Grant Application

City Manager Stavres gave an overview of this item.

Mayor Pro Tem Yates noted the City was eligible for $100 million in grant funding but was only applying for about $20 million, and inquired if other projects, like the Lake Elbert infrastructure or North Lake Shipp Drive, could be included. City Manager Stavres explained that the grant funds were specifically for improvements yet to be made and were designated as hardening dollars so projects caused by past storm damage were not eligible.

Winter Haven Water Director Hubbard provided further clarification and reported that there was high demand for hurricane-related state funding, with requests exceeding $1 billion. The City was focusing on projects likely to be funded, specifically hardening efforts at the wastewater plant, while being mindful of overall state priorities. The total project was estimated at $300 million, with $200 million currently accounted for. Discussion ensued.

B. Protecting Florida Together Alternate Water Supply Grant Application

City Manager Stavres gave an overview of this item.

(Commissioner Dantzler left the room at 6:33 p.m.)

Mayor Birdsong and Mayor Pro Tem Yates asked about progress toward funding goals. Director Hubbard said they had targeted 40% of the five-year Capital Improvements Plan (CIP), currently estimating 15–20% achieved, with more projects upcoming. He noted a proposed funding plan of $75 million in grants and $135 million in State Revolving Fund (SRF) loans over five years, and emphasized ongoing discussions with the state and the need to keep both state and federal authorities updated as project priorities and numbers evolved. Discussion ensued.

C. Interlocal Agreement for Collection of Polk County Impact Fees

City Manager Stavres gave an overview of this item.

(Commissioner Dantzler reentered the room at 6:36 p.m.)

(City Manager Stavres left the meeting, but had excused himself prior)

There were no questions or discussion.

❖

(Note: Items 5A and 5B were presented after item 15C)

16. **CITY COMMISSIONERS/LIAISON REPORTS** – No report

17. **CITY ATTORNEY REPORT** – No report

18. **CITY MANAGER REPORT** – No report

19. **DEPUTY CITY MANAGER REPORT** – No report

20. **CITY CLERK REPORT** – No report

21. **EMERGENCY MATTERS NOT RECEIVED FOR THE AGENDA** – None

22. **ADJOURNMENT** – 7:30 p.m.

ATTEST:

Vanessa Castillo, MMC
City Clerk

CITY OF WINTER HAVEN, FLORIDA

Nathaniel J. Birdsong, Jr.
Mayor

DRAFT

Mayor's Statement

State Law requires the first substantive issues to be discussed at this hearing are:

- Name of the Taxing Authority – City of Winter Haven
- Rolled-back rate is 6.2254 mills
- The percentage increase in the millage over the rolled-back rate is 5.86%
- Millage rate to be levied is 6.5900
- The reasons Ad Valorem tax revenues are increasing:

The ad valorem proceeds resulting from the difference between the proposed millage rate and the rolled-back rate will be used to offset increased operating costs and fund capital projects.

DATE: September 8, 20255

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: C.J. Scott, Chief Financial Officer
Allen Weeks, Budget and Management Officer

SUBJECT: Ordinance O-25-28 Adopting the Millage Rate for Fiscal Year 2025-2026 at 6.5900 mills

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BACKGROUND

Florida Statutes require each taxing authority to annually set a millage rate for property taxation following required public hearings. The City Commission set the proposed rate of 6.5900 mills at the July 23, 2025 City Commission meeting. The Property Appraiser used that information to prepare TRIM notices, which were distributed in August.

As part of the annual budget process, each September the City Commission establishes the ad valorem millage rate for the ensuing fiscal year. The millage rate must be established by ordinance and have a public hearing at each of the two readings of the ordinance. The ordinance is read in its entirety at each public hearing. The first public hearing is scheduled for Wednesday, September 10, 2025 and the second is scheduled for Monday, September 22, 2025. The new fiscal year begins October 1, 2025.

In the hearings, the first substantive issues discussed shall be the percentage increase in millage over the rolled-back rate, and the specific purposes for which the additional proceeds are to be used.

FINANCIAL IMPACT

The 6.5900 mills ad valorem rate will generate $31,202,469 to the City's General Fund at a collection rate of 96.50%.

STRATEGIC PLAN ALIGNMENT:

- **Pillar:** Responsible Government
- **Goal:** 6.1 – Exemplify fiscal accountability and resiliency.
- **Strategy:** 6.1.1 – Enhance fiscal communication via implementation and distribution of a Budget Book, Budget in Brief, Popular Annual Financial Report

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-25-28

ATTACHMENT

- Ordinance O-25-28

ORDINANCE NO. O-25-28

AN ORDINANCE OF THE CITY OF WINTER HAVEN, FLORIDA, ADOPTING A MILLAGE RATE TO PROVIDE SUFFICIENT FUNDS FOR PROJECTED EXPENDITURES OF THE 2025-2026 FISCAL YEAR BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on Wednesday, September 10, 2025, the City of Winter Haven, held a public hearing as required by Florida Statute 200.065; and

WHEREAS, a budget has been prepared estimating expenditures and revenues of the City for the ensuing year, with detailed information, including revenues to be derived from sources other than ad valorem levy, and recommendations have been made as to the amount to be appropriated for the ensuing year; and

WHEREAS, the City of Winter Haven strives to provide a level of service consistent with the express desires and demands of its citizens; and

WHEREAS, it is necessary that taxpayers of Winter Haven also be willing to share the common expenditures of said services, and to provide funds therefore.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

1. The millage levy for Fiscal Year 2025-2026 is hereby set at a rate of 6.5900 mills.

2. The millage rate of 6.5900 is 5.86% higher than the rolled- back rate of 6.2254.

3. If any, word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

4. The Ordinance will take effect on October 1, 2025.

INTRODUCED on first reading this 10th day of September, 2025.

PASSED on second reading this 22nd day of September, 2025.

CITY OF WINTER HAVEN, FLORIDA

_____

MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

DATE: September 8, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: C.J. Scott, Chief Financial Officer
Allen Weeks, Budget and Management Officer

SUBJECT: Ordinance O-25-29 Adopting the Budget for Fiscal Year 2025-2026 in the amount of $216,326,606

BACKGROUND

Florida Statute requires each taxing authority to annually adopt tentative and final budgets. The law also requires that the local government hold a public hearing prior to the adoption of each of those budgets. The TRIM notice which was sent to all property owners in August, notified the City of Winter Haven property owners of the proposed millage rate and date of the first public hearing on the millage.

The City will advertise the adoption of the final budget and the notice of tax increase prior to the second public hearing, in accordance with state law. That second and final hearing will be held on Monday, September 22, 2025.

The tentative budget has been prepared based on City needs and Commission directives authorized at the Budget Workshop held on Wednesday, July 23, 2025. Those directives included the adoption of the current millage rate of 6.5900. The budget has been prepared in compliance with City's policies and requirements and appropriate State Statutes.

FINANCIAL IMPACT

The City Budget for Fiscal Year 2025-2026 is $216,326,606.

STRATEGIC PLAN ALIGNMENT:

- **Pillar:** Responsible Government
- **Goal:** 6.1 – Exemplify fiscal accountability and resiliency.
- **Strategy:** 6.1.1 – Enhance fiscal communication via implementation and distribution of a Budget Book, Budget in Brief, Popular Annual Financial Report

RECOMMENDATION

Staff recommends the City Commission approve Ordinance O-25-29

ATTACHMENT

- Ordinance O-25-29

ORDINANCE NO. O-25-29

AN ORDINANCE MAKING APPROPRIATIONS OF FUNDS FOR DEFRAYING THE EXPENSES OF THE MUNICIPAL GOVERNMENT OF THE CITY OF WINTER HAVEN FOR FISCAL YEAR, 2025-2026, ADOPTING THE BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA, FISCAL YEAR COMMENCING OCTOBER 1, 2025 AS THE OFFICIAL BUDGET OF THE CITY OF WINTER HAVEN, FLORIDA, FISCAL YEAR 2025-2026; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes require each taxing authority to annually adopt tentative and final budgets, and

WHEREAS, the City of Winter Haven has held workshops and Commission meetings regarding the fiscal year 2025-2026 budget, and;

WHEREAS, estimates have been made by the City Manager of the City of Winter Haven as presented in the Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2025, showing that the sum of $216,326,606 will be required for defraying the expenses of maintaining the government of the City of Winter Haven, Florida for the Fiscal Year 2025-2026, and

WHEREAS, the Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2025, anticipates sufficient revenues to fund projected expenditures of $216,326,606.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER HAVEN, FLORIDA, AS FOLLOWS:

1. The sum of $216,326,606 is hereby appropriated out of all the various revenues accruing to the City of Winter Haven and set aside for the purpose of paying the expenses of and maintaining the government of the City of Winter Haven for Fiscal Year 2025-2026.

2. The Budget of the City of Winter Haven, Florida, Fiscal Year commencing October 1, 2025 on file in the Office of the City Clerk, is hereby adopted by reference as the official budget of the City of Winter Haven, Florida for Fiscal Year 2025-2026.

3. If any, word, sentence, clause, phrase or provision of this Ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

4. It is the intention of the City Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and that sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener’s errors which do not affect the intent may be authorized by the City Manager or

his designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

5. This Ordinance shall take effect on October 1st, 2025.

INTRODUCED on first reading this 10th day of September, 2025.

PASSED on second reading this 22nd day of September, 2025.

CITY OF WINTER HAVEN, FLORIDA

_____
MAYOR-COMMISSIONER
Nathaniel J. Birdsong, Jr.

ATTEST:

_____
CITY CLERK
Vanessa Castillo, MMC

Approved as to form:

_____
CITY ATTORNEY
Frederick J. Murphy, Jr.

DATE: August 22, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director

SUBJECT: Water Department Payment Portal (Smart Energy Water) (SEW)

BACKGROUND

Since 2019, the Water Department has collaborated with Smart Energy Water (SEW) and First Billing Services (FBS) to offer various payment methods, including in-house point of sale. FBS has been responsible for dealing with the back-end duties of payments, while SEW is the face of the portal. In 2019, SEW was unable to provide all the services that FBS implements in regard to payments. Thus, a joint collaboration was started between FBS and SEW.

Staff is proposing to amend the current contract with SEW to provide customer payment options (IPaySmart) and call center services, and discontinue the services provided by FBS. This will also update the portal to a newer, more user-friendly version provided by SEW that will offer customers a more straightforward experience.

What does this mean for customers?

- Customers will:
  - Be able to use Google and Apple Pay in office, on the portal, and in the mobile app.
  - Still have access to live agents and a 24/7 automated service through interactive voice response (IVR).
  - NOT have to sign up for the portal again.
  - Have to perform a one-time re-enroll in auto-pay.
  - Receive more efficient service due to streamlined software systems for staff to navigate and more user-friendly portal.

This is a 5 year agreement with SEW which ensures continuity in service for the customers over a predictable timeline and also enables the City to lock in a low transaction fee rate for that time period.

FINANCIAL IMPACT

Funds in the amount of $330,000 are budgeted in account 402-80-968-5870 and $11,500 in account 402-03-918-4101 in FY26 for the varied services and would be further accounted for annually in subsequent years.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Infrastructure
- **Goal:** 3.4 – Pursue emerging opportunities to embrace new technology, infrastructure, and enterprise opportunities.
- **Strategy:** 3.4.2 –Ensure an organizational culture that embraces innovation and the adoption of new technology.

RECOMMENDATION

Staff recommends the City Commission approve the contract and contract addendums for SEW and SEW's payment system, IPaySmart, and authorize the City Manager, or his designee, to take any and all actions necessary thereto.

ATTACHMENTS

- Contract Addendum for SEW (portal)
- Winter Haven Order form SEW
- Contract Addendum for IPaySmart (payments)

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CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: Smart Energy Systems, Inc., a Delaware corporation, authorized to do business in the State of Florida, d/b/a Smart Energy Water
15495 Sand Canyon Avenue, Suite 100
Irvine, CA 92618

Name of Contract: Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025.

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025 are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this Addendum is the date that the governing body of the City approves and enters into the Contract and this Addendum at a duly called open public meeting. The City hereby represents and warrants that as of the date the City enters into the Contract and this Addendum, the City has secured all requisite approvals contemplated by the foregoing sentence.

(d) Vendor represents that it is authorized to transact business in the State of Florida.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this Addendum are

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governed by Florida law.

(g) Vendor and the City acknowledge that the City's entry into the Contract, remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this Addendum, it has had an opportunity to review this Addendum with its legal counsel and fairly negotiated this Addendum at arm's length.

(j) The City acknowledges that the Contract and this Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this Addendum.

§ 2. Definitions.

Words used in the Contract and Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Contract Documents means the Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025 and City of Winter Haven Contract Addendum.

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. Primacy of Addendum.

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This Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, the terms of this Addendum shall be primary and shall control over any expressly conflicting background term and condition in the Contract Documents.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's payment obligations to Vendor of any kind or type, the City or the Vendor may immediately

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terminate the Contract and this Addendum and be released from any future responsibility or liability thereunder.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2024), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

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IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall be entitled to any remedies set forth in Section 119.0701 of Florida Statutes, applicable law, or the Contract.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that, except as may otherwise be set forth in the Agreement, the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. . This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

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(c) This Section shall survive termination of the Contract and this Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract, this Addendum, the Contract Documents, and the resulting contract with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Vendor acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this Addendum, the Contract Documents, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

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(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

§ 10. <u>Assignment by Vendor.</u>

The contract expressed by the Contract, this Addendum, and the Contract

Documents shall not be assigned by either party, or any successor thereto, in whole or in part without the prior written consent of the other party, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 8 and 9*]

City of Winter Haven Contract Addendum
to:
Order Form for Smart Energy Water Cloud Services Subscription

Signature Page for Vendor

Vendor:

Executed this 30th day of July, 2025

By: DocuSigned by: Harman Sandhu B15E7D788BA6426...

Name: Harman Sandhu

Title: President

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City of Winter Haven Contract Addendum
to:
Order Form for Smart Energy Water Cloud Services Subscription

City of Winter Haven, Florida:

Executed this ____ day of _____, 2025

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney

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Order Form for Smart Energy Water Cloud Services Subscription

Between Smart Energy Systems, Inc. dba Smart Energy Water
15495 Sand Canyon Avenue, STE 100
Irvine, CA 92618
("**SEW**")

And City of Winter Haven, a Florida Municipal corporation
451 Third St. NW
Winter Haven, FL 33881
("**Customer**")

1. Order Form

This Order Form, once signed by SEW and Customer shall be a binding agreement for the SEW Cloud Services (as defined herein) and/or other products or services set forth herein effective as of the date it is signed by Customer (the "**Effective Date**"). Customer subscribes to, and SEW will provide to Customer, the SEW Cloud Services and/or other products and services selected in Sections 2 through 5 of this Order Form for the Initial Term (as defined herein) pursuant to the applicable terms and conditions of this Agreement (as defined herein).

2. SEW Cloud Services

The table below sets forth the SEW Cloud Services purchased by Customer for the Initial Term subject to the terms and conditions of this Agreement.

✓	Product Code	Product Name
SmartCX – Mass Market Persona		
☒	CXM-10-Web	Customer Web Portal
☒	CXM-10-Mobile	Customer Mobile Apps (iOS & Android)
☒	CXM-10-1	CXM – My Account
☒	CXM-10-2	CXM – Billing
☒	CXM-10-3	CXM – Usage
☒	CXM-10-5	CXM – Outages
☒	CXM-10-6	CXM – Notifications
☒	CXM-10-7	CXM – Service
☒	CXM-10-8	CXM – Connect Me
☒	CXM-10-9	CXM – Ways to Save (fka Efficiency / Conservation)
☒	BXM -10-13	BXM – Dashboard
☒	BXM-10-14	BXM – Ways to Save (fka Efficiency / Conservation)
☒	BXM -10-15	BXM – Notifications
☒	BXM -10-16	BXM – CSR
☒	BXM -10-17	BXM – Administration
☒	BXM -10-18	BXM – Outages
☒	BXM -10-19	BXM – Customer AI / Analytics
SmartIX		
☒	IX -10-3	IX – Leakage Analytics (Water clients only)
Platform Support & Maintenance Subscription		
☒	Sup-1	Standard Support Plan
☐	Sup-2	Max Support Plan (requires a separate order form)

3. Subscriptions, Initial Term, and Fees

The table below sets forth the type and number of SEW Cloud Service subscriptions purchased by Customer (as well as the number of users authorized to utilize such service) for the Initial Term. The "Initial Term" means that certain period January 14, 2025, and ending on January 13, 2030. All fees set forth herein are in U.S. Dollars (USD).

✓	Product	Subscription Metric	Number of Subscriptions	Annual Subscription Fee
☒	SmartCX - Mass Market Persona	Meters / Active Services	40,000	$55,610 Includes two (2) guest users per account for web portal and mobile application access Subscription for additional meters can be purchased at $1.60 per meter. Discounts shall be available for meters purchased in larger quantities

☒	SmartBX - Customer Service Portal	Utility Users	3	Included (Additional users at $295 per user annually)

Initial Term	Total Cloud Services Subscription Fees (excluding taxes)	Payment Conditions
Jan 14, 2025 – Jan 13, 2030	$278,050 ($55,610 annually)	All Cloud Service subscription fees for the Initial Term are due upon signing and invoiced in five (5) equal installments with the first such installment due on the Effective Date and then annually thereafter on January 14.

The subscriptions and services selected in Sections 4 and 5 of this Order Form and the fees therefor are set forth in such sections and shall be invoiced separately pursuant to the applicable terms of the Agreement.

4. SEW Notification Services

The table below sets forth the SEW Notification Services subscriptions purchased by Customer for the Initial Term subject to the Agreement. The fixed monthly and annual fees for such services are due annually in advance.

☒ EMAIL MESSAGING SERVICE

Service Type	Description
Email Service	Up to 175,000 emails per month

Note: Email messaging speed shall be up to 10 emails/second. Higher speeds require additional fees.

☒ TEXT MESSAGING SERVICE

Service Type	Description
Outbound Short Code Messaging	Up to 80,000 outbound SMS messages per year for the following use cases only: i. Alerts to customers to notify of potential high volume or continuous use leaks ii. Alerts to notify a customer that they have reached a self-selected consumption threshold iii. Alerts to notify a customer of the following: eBill is ready, payment reminder, payment delinquent

Note: SMS Text message speed shall be up to 5 messages/second. Higher speeds require additional fees. Shared short code shall be used.

☒ VOICE CALL SERVICE

Service Type	Description
Outbound IVR	Up to 76,000 outbound IVR messages per year for the following use cases only: i. Alerts to customers to notify of potential high volume or continuous use leaks ii. Alerts to notify a customer that they have reached a self-selected consumption threshold iii. 3,000 per month of the 76,000 outbound IVR messages to be dedicated to billing notifications iv. Alerts to notify a customer of the following: eBill is ready, payment reminder, payment delinquent
Voice Call Volume SLA	Standard: Up to 1 call per second

☒ WESMART CHAT & BOT SERVICES

	Service	Price (USD)
☒	**We Smart ChatBot - BASIC** **(Pre-configured static responses only)**	Annual Fee - $12,500

All fixed fee stated in this section shall be payable annually upfront.

5. [Reserved]

6. Terms and Conditions

This Order Form is governed by and incorporates the following documents in effect as of the Effective Date. The documents are listed in order of precedence and are referred to collectively as the "**Agreement**."

No.	Document	Location
1	This Order Form	N/A
2	General Terms and Conditions for Cloud Service	Exhibit A
3	Notification Services Terms and Conditions	Exhibit B
4	Data Retention Policy	Exhibit C
5	Contract Addendum	Exhibit D

7. Acceptance and Authorization

Customer	Smart Energy Water
Signature:	Signature: DocuSigned by: Harman Sandhu B1DE7D7888A04D6...
Name:	Name: Harman Sandhu
Title:	Title: President
Effective Date:	Date: 7/30/2025

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Exhibit A
General Terms and Conditions for Cloud Service

1. **DEFINITIONS.** The following capitalized terms will have the following meanings whenever used in this Agreement (as defined herein).

1.1. "Agreement" means an Order Form (as defined herein) and the documents incorporated into the Order Form.
1.2. "Calculation Period" means that certain period commencing on the date of the most recent establishment or increase of fees and ending on that date immediately prior to applicable price increase taking effect.
1.3. "Customer Data" means any content, materials, data, and information that end users enter into the production system of a Cloud Service.
1.4. "Cloud Service" means any distinct, subscription-based, hosted, supported and operated on-demand solution provided by SEW under an Order Form.
1.5. "CPI Index" means the Consumer Price Index, East Region published by the U.S. Bureau of Labor.
1.6. "Documentation" means Smart Energy Water's ("SEW") then-current technical and functional documentation relating to the Cloud Services which SEW makes available to Customer as part of such service, as updated from time to time.
1.7. "Feedback" means any input, comments, or suggestions regarding SEW's business and technology direction, and the possible creation, modification, correction, improvement or enhancement of the Cloud Service.
1.8. "Implementation" means the process for gathering requirements, configuring, testing, training, and integrating the Cloud Services for Customer's use, as set forth in a Statement of Work (as defined herein).
1.9. "IP Rights" means any and all rights, title and interest in and to the Cloud Services (including without limitation all intellectual property rights therein and all modifications, extensions, customizations, scripts or other derivative works of the Cloud Services provided or developed by SEW) and anything developed or delivered by or on behalf of SEW under the Agreement are owned exclusively by SEW or its licensors. Except as provided in the Agreement, the rights granted to Customer do not convey any rights in the Cloud Services, express or implied, or ownership in the Cloud Services or any intellectual property rights thereto. Customer grants SEW a royalty free, worldwide, perpetual, irrevocable, transferable right to use, modify, distribute and incorporate into the Cloud Services (without attribution of any kind) any suggestions, enhancement request, recommendations, proposals, correction or other feedback or information provided by Customer or any users related to the operation or functionality of the Cloud Services. Any rights in the Cloud Services or SEW's intellectual property not expressly granted herein by SEW are reserved by SEW.
1.10. "Maintenance and Support" means, unless Customer is subscribing to SEW's Max Support Plan, maintenance and support which shall be performed in accordance with SEW's then-current Standard Support Plan.
1.11. "Materials" means any materials (including statistical reports) provided, developed or made available by SEW (independently or with Customer's cooperation) in the course of performance under the Agreement including the delivery of any support or Professional Services to Customer. Materials do not include Customer Data, Customer Confidential Information, or the Cloud Service.
1.12. "Order Form" means an order form executed by SEW and Customer which specifies the Cloud Services to be provided by SEW to Customer.
1.13. "Statement of Work" means a statement of work that (a) expressly references the Agreement, (b) is executed by an authorized representative of each party and (c) sets forth, at a minimum, the Implementation services to be performed by SEW and the related fees to be paid by Customer therefor.
1.14. "User" means individuals who are authorized by Customer to use the Cloud Services pursuant to this Agreement or as otherwise defined, restricted or limited in an Order Form. Users may include but are not limited to an active account registered with the Customer to use the Cloud Services, either from a preexisting account of Customer or as associated with an active utility meter, as set forth in an applicable Order Form.
1.15. "Taxes" means all transactional taxes, levies, and similar charges (and any related interest and penalties) such as federal, state, or local sales tax, value added tax, goods and services tax, use tax, property tax, excise tax, service tax or similar taxes.

2. **CLOUD SERVICE DELIVERY.**

2.1. Right to Access and Use Cloud Service. Subject to the terms and conditions of the Agreement, SEW grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited right to access and use the Cloud Service (including its implementation and configuration) and the Materials during the Term solely for Customer's internal business operations purposes. Customer's subscription includes access to a lower tenant and a production tenant. The terms and conditions of Section 3 apply only to the production tenant.
2.2. Restrictions on Use. Customer may allow its Users to use the Cloud Services for the purpose set forth in Section 2.1, and Customer is responsible for their compliance with the Agreement and Customer's applicable Order Form. Customer agrees that it will comply and will ensure that the Users comply with any applicable restrictions or limitations. The terms of the Agreement shall also apply to updates and upgrades subsequently provided by SEW to Customer for the Cloud Services. Customer will not permit any third parties to access and use the Cloud Service other than Users. Usage is limited to the volumes set forth in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual. Customer will monitor its own use of the Cloud Service and report any use in excess of the usage and metrics identified in the Order Form. SEW may monitor use to verify compliance with usage metrics, volumes, and the Agreement. Customer will be responsible for breaches of the Agreement by Users. Customer may not, and may not cause or permit others to: (a) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish, download, or copy any part of the Cloud Services (including data structures or similar materials produced by programs); (b) access or use the Cloud Services to build or support, directly or indirectly, products or services competitive to SEW; (c) license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Cloud Services to any third party except as permitted by the Agreement; (d) remove or modify any program markings or any notice of SEW's proprietary rights; (e) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security

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interest or other encumbrance on the Cloud Service; (f)perform or disclose any benchmarking, availability, vulnerability, penetration, network discovery, port and service identification, or performance testing of the Cloud Services without SEW's prior written approval; or (g) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Cloud Services or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing. Customer will (i) use commercially reasonable efforts to prevent unauthorized access to or use of the Cloud Service and notify SEW promptly of any such unauthorized access or use, and (ii) use the Cloud Service only in accordance with the Documentation and all applicable laws, rules and regulations. In addition to other rights that SEW has in the Agreement, SEW has the right to take remedial action if any of Customer's obligations in this Section 2 are violated, and such remedial action may include suspending access to the Cloud Services.

2.3. Third Party Web Services. The Cloud Service may include integrations with web services made available by third parties (other than SEW or its affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Services and the Agreement does not apply to them. SEW is not responsible for the content of these third party web services, and any fees levied by such third parties for access and integration with their services are not included in this Agreement.

2.4. Mobile Access. Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app stores. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

3. **UPDATES AND SERVICE LEVELS.**

3.1. Maintenance. SEW will provide regular Maintenance and Support, including making available to Customer any modifications, bug-fixes, or security updates to the Cloud Service that SEW generally makes available to its customers, for no additional fee ("Updates").

3.2. Service Level Availability. SEW will use commercially reasonable efforts to maintain an average monthly Availability of the Cloud Service of 99.5%. "Availability" is calculated as follows: *Availability = ([number of minutes in month] - [number of minutes per month the Cloud Services is Unavailable]) / [number of minutes in month].*
"Unavailable" means the Cloud Service is not available for access and use through Customer's Internet connection, excluding any performance issues: (i) caused by factors outside of SEW's reasonable control, including, but not limited to, any force majeure event or Internet access or related problems beyond the demarcation point of SEW; (ii) that result from any actions or inactions of Customer or any third party; (iii) that result from Customer's equipment, software or other technology and/or third-party equipment, software or other technology (other than third-party equipment within SEW's direct control); (iv) that result from any planned maintenance as described in this Agreement or (v) arising from SEW's suspension or termination of Customer's right to use the Cloud Services.

3.3. Modifications to Cloud Services. SEW may modify the Cloud Service (including Maintenance and Support), provided that SEW shall not materially degrade the core functionality of the Cloud Service during the Term. SEW shall provide Customer with reasonable advance notice of modifications to the functionality of the Cloud Service.

4. **FEES.**

4.1. Payment Terms. Customer shall pay all the fees as they become due as set forth in the Agreement. The fees set forth in the Order Form are subject to certain adjustments set forth in this Agreement, but in no event shall these fees decrease. Customer shall pay any applicable fees in full within thirty (30) days from the invoice date (unless otherwise specified in the Order Form and/or Contract Addendum). All fees are non-refundable except as otherwise expressly stated herein. If Customer fails to pay an invoice in accordance with the foregoing terms, Customer shall also pay (i) interest on the unpaid amount at one and one-half percent (1.5%) per month (or the maximum allowable under the law, whichever is less); and (ii) any collections or legal fees incurred by SEW in order to collect payment of the corresponding invoices. SEW's invoices shall be deemed correct and acceptable to Customer unless Customer advises SEW of disputed items within thirty (30) days of receipt of such invoice. In addition to any other available remedies, if Customer's account is sixty (60) days or more overdue, SEW may, without prior notice to Customer, suspend Customer's use of the applicable Cloud Service until such payments are paid in full. Customer agrees that SEW shall not be liable to Customer or other third party for any suspension pursuant to this Section.

4.2. True Up. At any time, SEW may conduct a true-up review comparing (i) the number of actual subscriptions in use and (ii) the number of subscriptions purchased in the Order Form and in the event the former exceeds the latter ("Additional Subscriptions"), Customer shall be required to pay for such Additional Subscriptions at the then-current rates.

4.3. Taxes. SEW shall separately state on each invoice all Taxes, levies or duties. Subject to applicable law, Customer shall be responsible for any taxes and/or duties related to such invoices.

4.4. Certain Adjustments. At any time during the Initial Term upon written notice to Customer, SEW may increase the fees charged to Customer (including, without limitation, annual and monthly subscriptions, one-time, and/or volume-based fees) by a percentage equal to the greater of: (i) the change in the CPI Index calculated on a compounding basis for the Calculation Period and (ii) five percent (5%) per year calculated on a compounding basis during the Calculation Period. In the event this Agreement automatically renews for the initial Renewal Term (and any subsequent Renewal Term) as contemplated by Section 11.1, the then-applicable fees charged to Customer (including, without limitation, annual and monthly subscriptions, one-time, and/or volume-based fees) shall automatically and without any further action of the Parties increase by fifteen percent (15%).

5. **INTELLECTUAL PROPERTY RIGHTS.**

Customer Data. As between SEW and Customer, Customer owns the Customer Data. Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws Customer retains all rights in and related to Customer Data. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Customer Data, and for obtaining all rights related to Customer Data required by SEW to provide the Cloud Services. Customer hereby grants to SEW: (a) a non-exclusive, worldwide, royalty-free, fully paid

up, non-sublicensable (except to SEW's contractors and service providers), non-transferable (subject to Section 12.3) right and license to copy, distribute, display, create derivative works of and otherwise use the Customer Data (i) to perform its obligations under this Agreement, (ii) to internally improve its products and services and (iii) to create aggregated and/or anonymized data from such Customer Data (the "Aggregated Data"); and (b) a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid up, sublicensable (through multiple tiers), transferable right and license to copy, distribute, display, create derivative works of and otherwise use the Aggregated Data. Customer reserves any and all right, title and interest in and to the Customer Data other than the rights and licenses expressly granted to SEW in this Section 5.1. Customer acknowledges and agrees that in connection with the provision of the Cloud Services, SEW may store and maintain Customer Data for a period of time consistent with SEW's standard business processes. Following expiration or termination of the Agreement or a Customer account, if applicable, SEW may deactivate the applicable Customer account(s) and delete any data therein subject to compliance with applicable Florida law and this Agreement. Customer grants SEW the right to host, use, process, display and transmit Customer Data to provide the Cloud Services pursuant to and in accordance with the Agreement. Customer shall allow SEW's artificial intelligence platform to "learn" from the transactions it processes. SEW shall protect the data by anonymizing and aggregating any and all data used for the "learning" and development of its artificial intelligence platform. SEW may use Aggregated Data alone or in combination with data from other sources to create reports, evaluations, benchmarking tests, studies, analyses, and to improve, update, promote and maintain the Cloud Services in any manner.

5.1. Cloud Services. SEW owns and retains all Intellectual Property Rights, title, and interest in and to the Documentation, Materials, and Cloud Services, and any professional services, design contributions, related knowledge or processes, whether or not developed for Customer (collectively "SEW IP"). Nothing in this Agreement will be construed to grant Customer any ownership in the SEW IP. Customer recognizes that the Cloud Services and its components are protected by copyright, patent, and/or other laws. SEW grants no, and reserves any and all, rights other than the rights expressly granted to Customer under the Agreement with respect to the Cloud Services. Customer shall execute such documentation and take such other steps as is reasonably necessary to secure SEW's title over such rights. With respect to the Cloud Service, Customer shall not (i) copy, translate, disassemble, decompile, make derivative works, or reverse engineer the Cloud Service, Documentation, or Materials (or attempt any of the foregoing); (ii) enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights; (iii) circumvent or endanger the operation or security of the Cloud Service; and/or (iv) remove SEW's copyright and authorship notices.

5.2. Feedback. Customer hereby grants SEW a perpetual, irrevocable, unrestricted, worldwide license to use any Feedback, without compensation or any obligation to report on such use, and without any other restriction. Such rights will include, without limitation, the right to exploit Feedback in any way and the right to grant sublicenses (through multiple tiers). Notwithstanding the provisions of Article 6 (*Confidential Information*) below, Feedback will not be considered Customer's Confidential Information.

6. **CONFIDENTIAL INFORMATION.**

6.1. Confidential Information. "Confidential Information" refers to the following types of material or content one party to this Agreement ("Discloser") discloses to the other ("Recipient"): (a) any information Discloser marks or designates as "Confidential" at the time of disclosure; and (b) any other nonpublic, sensitive information disclosed by Discloser including, but not limited to code, inventions, know-how, business, technical, and financial information, or other information which should reasonably be known by the Recipient to be confidential at the time it is disclosed, due to the nature of the information and the circumstances surrounding such disclosure. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in Recipient's possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient's improper action or inaction; or (iv) is rightfully obtained by Recipient from a third party without breach of any confidentiality obligations or (vi) is a public record as defined under applicable Florida law..

6.2. Nondisclosure. Recipient will not use Confidential Information of the Discloser for any purpose other than to exercise its rights or perform its obligations under this Agreement (the "Purpose"). Recipient: (a) will not disclose Confidential Information of the Discloser to any employee or contractor of Recipient unless such person needs access in order to facilitate the Purpose and executes a written agreement with Recipient with terms no less restrictive than those of this Article 6; and (b) will not disclose Confidential Information of the Discloser to any other third party without Discloser's prior written consent. Recipient will protect Confidential Information of the Discloser with the same degree of care it uses to protect its own confidential information of a similar nature, but with no less than reasonable care. Recipient will promptly notify Discloser of any misuse or misappropriation of Confidential Information of the Discloser that comes to Recipient's attention. Notwithstanding the foregoing, Recipient may disclose Confidential Information of the Discloser as required by applicable law or by proper legal or governmental authority. Recipient will give Discloser prompt notice of any such legal or governmental demand and reasonably cooperate with Discloser in any effort to seek a protective order or otherwise to contest such required disclosure, at Discloser's expense.

6.3. Injunction. Recipient agrees that breach of this Article 6 may cause Discloser irreparable injury, for which monetary damages may be inadequate, and in addition to any other remedy, Discloser will be entitled to seek injunctive relief against such breach or threatened breach, without proving actual damage.

6.4. Termination & Return. Upon expiration or termination of this Agreement, Recipient will return to the Discloser all copies (excepting one (1) copy archived for purposes of Recipient's back-up processes) of Confidential Information of the Discloser or certify, in writing, the destruction thereof.

6.5. Retention of Rights. This Agreement does not transfer ownership of Confidential Information or grant a license or any other right thereto. Discloser will retain all right, title, and interest in and to all of its Confidential Information.

7. **DATA PRIVACY & SECURITY.**

7.1. Data Security. Each party will be responsible for establishing and maintaining its own data privacy and information security

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policies, including physical, technical, administrative, and organizational safeguards to ensure the security and confidentiality of Customer Data; protect against any anticipated threats or hazards to the security of Customer Data; protect against unauthorized disclosure, access to, or use of Customer Data; ensure the proper disposal of Customer Data; and ensure that all employees, agents, and subcontractors, if any, comply with the above.

8. **REPRESENTATIONS & WARRANTIES.**

8.1. By SEW. SEW represents and warrants that it owns the Cloud Services and has the power and authority to grant the rights in this Agreement without the further consent of any third party. In the event of a breach of the warranty in this Section **8.1**, SEW, at its own expense and election, will promptly take the following actions: (i) secure for Customer the right to continue using the Cloud Services; (ii) replace or modify the Cloud Services to make it non- infringing, provided such modification or replacement will not materially degrade any core functionality; or (iii) refund the prorated subscription fee paid for the Cloud Services for every month remaining in the Term, following the date after which Customer is required to cease use of the Cloud Services. The preceding sentence states SEW's sole obligation and liability, and Customer's sole remedy, for breach of the warranty in this Section **8.1** and for potential or actual infringement by the Cloud Services. SEW's representations and warranties herein will not apply to the extent any infringement arises out of any conditions listed in Section 9.1(a)-(f) below.

8.2. By Both Parties. Each party represents and warrants that (a) it has the full right and authority to enter into, execute, and perform its obligations under this Agreement, (b) no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required hereunder, (c) the execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party; and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both Parties.

8.3. By Customer. Customer represents and warrants to SEW that Customer owns all rights, title, and interest in and to the Customer Data, or that Customer has otherwise secured all necessary rights, consents, and permissions in the Customer Data as may be necessary to permit the access, use, and distribution thereof as contemplated by this Agreement including its processing by SEW.

8.4. Warranty Disclaimers. Except for the express warranties in Sections 8.1 and 8.2 above, SEW MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE. SEW does not warrant that the Cloud Services will perform without error or that it will run without immaterial interruption. SEW provides no warranty regarding, and will have no responsibility for, any claim arising out of: (a) a modification of the Cloud Services made by anyone other than SEW, unless SEW approves such modification in writing; or (b) use of the Cloud Services in combination with any operating system, hardware, software or other third-party materials not authorized or specifically forbidden in the Specifications or Documentation. SEW shall not be responsible for any issues related to the performance, operation or security of the Cloud Services that arise from the Customer Data.

9. **INDEMNIFICATION.**

9.1. Indemnification by SEW. SEW will defend Customer from third party claims that the Cloud Services infringes or misappropriates a third party's intellectual property right and will indemnify and hold Customer harmless from any damages, liabilities, costs, and expenses (including reasonable attorneys' fees at trial and appellate levels and in any forums) awarded by a court or incurred by Customer provided that Customer (i) promptly notifies SEW of the claim; (ii) gives SEW reasonable control of the defense and settlement of the claim; and (iii) renders any commercially reasonable assistance requested by SEW in defense or settlement of the. SEW's obligations set forth in this Section 9.1 do not apply to the extent that any claim arises out of: (a) Customer's breach of this Agreement; (b) revisions to the Cloud Services made without SEW's written consent; (c) Customer's failure to incorporate Upgrades that would have avoided the alleged infringement, provided SEW offered such Upgrades without charges not otherwise required pursuant to this Agreement; (d) SEW's modification of Cloud Services in compliance with Customer's specifications; (e) unauthorized use of the Cloud Services by third parties; or (f) use of the Cloud Services with hardware or software not provided by or approved of by SEW.

9.2. Indemnification by Customer. Subject to Florida law and the provisions of this Agreement including any Addendums, Customer will defend SEW and its officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns from any damages, settlement amounts, liabilities, costs or expenses, including attorneys' fees that are payable to any third party or incurred by SEW arising from any third-party claim, suit, or proceeding arising out of (a) SEW's authorized use of the Customer Data; (b) any use of the Cloud Services by Customer and/or its Users in violation of this Agreement; and/or (c) any activities by Customer that infringe any third-party's intellectual property rights.

9.3. Indemnification Procedure. If an indemnified party becomes aware of any matter it believes it should be indemnified under Section 9.1 or Section 9.2, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the indemnified party by any third party (each an "Action"), the indemnified party will give the other party prompt written notice of such Action. The indemnified party will cooperate, at the expense of the indemnifying party, with the indemnifying party and its counsel in the defense and the indemnified party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both Parties hereunder, such consent not to be unreasonably withheld or delayed.

10. **LIMITATION OF LIABILITY.**

10.1. Liability Cap. UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS) EXCEED THE AGGREGATE FEES PAID OR PAYABLE BY CUSTOMER TO SEW UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY.

10.2. Exclusion of Consequential Damages. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING LOST PROFITS OR LOST REVENUE, DATA, GOODWILL, OR REPUTATION.

10.3. Clarifications & Disclaimers. THE LIABILITIES LIMITED BY THIS SECTION 10 APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, OR OTHERWISE; EVEN IF SEW AND/OR CUSTOMER IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND EVEN IF SEW'S AND/OR CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. If applicable
law limits the application of the provisions of this Section 10, SEW's and CUSTOMER's liability will be limited to the maximum extent permissible by law. For the avoidance of doubt, SEW's liability limits apply to SEW's affiliates, parents, agents, sponsors, directors, officers, employees, consultants, and other representatives.

10.4. Exceptions to Limitation of Liability. The foregoing limitations do not apply to any liability arising from (i) either Party's indemnification obligations; (ii) either Party's confidentiality obligations; (iii) death or bodily injury arising from either party's gross negligence or willful misconduct; and/or (iii) Customer's unauthorized uses of any Cloud Service and/or failure by Customer to pay any fees due under the Agreement. Provided, however, that the Customer shall not be liable for punitive damages and/or special damages in any instance. Provided, further, Customer shall only be responsible for consequential damages arising out of account reconciliation matters only.

11. **TERM & TERMINATION.**

11.1. Term. The Initial Term of the Agreement shall commence January 14, 2025, and end on January 13, 2030. Thereafter, unless Customer has entered into a separate agreement with SEW regarding renewal of the Cloud Services prior to the expiration of the then-current term, the Agreement shall automatically renew for additional one (1)-year periods (each such period, a "Renewal Term," together with the Initial Term the "Term"), unless either party provides written notice of non-renewal to the other party at least ninety (90) days' prior to the end of the then-current term.

11.2. Termination. Either party may terminate this Agreement: (a) upon written notice to the other party if such other party has materially breached this Agreement and fails to cure such breach within thirty (30) days of written notice; or (b) upon written notice to the other party if such other party becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or assignment for the benefit of creditors (which, if involuntary, is not dismissed within sixty (60) days of its institution).

11.3. Effects of Termination. Upon expiration or termination of the Agreement or any Order Form for any reason: (i) SEW may immediately cease providing the Cloud Services; (ii) except in the case of a termination due to SEW's breach, any and all payment obligations of Customer for the then-current term under this Agreement will become due immediately; (iii) subject to applicable Florida law, within thirty (30) days after such expiration or termination, each party will return or destroy the tangible embodiments of the other party's Confidential Information in its possession and will not retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement. SEW shall delete, destroy, retain, or return Customer Data as required by this Agreement or applicable law. The following provisions will survive termination or expiration of the Agreement: (a) any obligation of Customer to pay fees incurred before termination (in addition to any fees owed under Section 11.3 above, if applicable) and (b) Sections 1, 4, 5, 6, 8.3, 9, 10, 11 and 12. A termination or expiration of the Agreement does not affect other agreements between the parties. There shall be no early termination fee due to SEW if CUSTOMER terminates this Agreement pursuant to Section 11.2.

12. **GENERAL PROVISIONS.**

12.1. Suspension. SEW may suspend Customer's or Users' access to, or use of, the Cloud Services if SEW believes that (a) there is a significant threat to the functionality, security, integrity, or availability of the Cloud Services or any content, data, or applications in the Cloud Services; (b) Customer or Users are accessing or using the Cloud Services to commit an illegal act; or (c) to comply with laws or regulations applicable to SEW. When reasonably practicable and lawfully permitted, SEW will provide Customer with advance notice of any such suspension. SEW will use reasonable efforts to re-establish the Cloud Services promptly after SEW determines that the issue causing the suspension has been resolved. During any suspension period, SEW will make Customer Data (as it existed on the suspension date) available to Customer. Any suspension under this Section shall not excuse Customer from Customer's obligation to make payments under this Agreement.

12.2. Independent Contractors. The Parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf.

12.3. Force Majeure. SEW shall not be liable for loss, delay, nonperformance (including failure to meet the service level commitment) to the extent resulting from any force majeure event, including, but not limited to, acts of God, strike, riot, fire, explosion, flood, earthquake, natural disaster, terrorism, act of war, civil unrest, criminal acts of third parties, failure of the Internet, governmental acts or orders or restrictions, failure of suppliers, labor stoppage or dispute (other than those involving SEW employees), or shortage of materials, provided that SEW uses reasonable efforts, under the circumstances, to notify Customer of the circumstances causing the delay and to resume performance as soon as possible.

12.4. Assignment & Successors. Neither party may assign this Agreement or any of its rights or obligations hereunder without the other party's written consent. Except to the extent forbidden herein, this Agreement will be binding upon and inure to the benefit of the Parties' respective successors and permitted assigns.

12.5. Severability. To the extent permitted by law, the Parties waive any provision of law that would render any clause of this Agreement invalid or unenforceable. In the event that a provision herein is held to be invalid or unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by law, and the remaining provisions of this Agreement will continue in full force and effect.

12.6. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach hereof will constitute a waiver of any other breach of this Agreement.

12.7. Choice of Law & Jurisdiction: This Agreement will be governed by the laws of the State of Florida, without reference to any conflicts of law principles. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts of Polk County, Florida. The Uniform Computer Information Transactions Act does not apply to the Agreement or to orders placed under it.

12.8. Conflicts. Should the Agreement conflict with any other agreements, the Agreement will govern, provided, however, the terms of the City of Winter Haven Contract Addendum shall take precedence over any conflicting terms of this Agreement.

12.9. Statute of Limitations. Except for claim(s) as to ownership or title to intellectual property rights, breach of the protections of the Confidential Information, the right of SEW to bring suit for payments due hereunder, or a party's failure to provide the indemnity obligations herein and its subject matter, either party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one (1) year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claims.

12.10. Construction. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.

12.11. Entire Agreement. The Agreement constitutes the complete and exclusive statement of the agreement between SEW and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them.

12.12. Counterparts. The Agreement may be executed in counterparts, each of which shall be an original and together will constitute a single instrument. Electronic signatures via DocuSign or any other form as determined by SEW are deemed original signatures.

12.13. Modification. Under no circumstances will the terms, conditions or provisions of any purchase order issued by Customer in connection to the Agreement be deemed to modify, alter or expand the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of SEW to object to such terms, provisions, or conditions.

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Exhibit B
Notification Services Terms and Conditions

In addition to, and without limiting any of the General Terms and Conditions for Cloud Services (or, in the event Customer purchased its cloud service subscription through a SEW authorized reseller, the terms and conditions of Customer's applicable subscription agreement), the below terms and conditions apply to Customer's subscription to and SEW's provision of Notification Services.

1. Definitions

1.1. "Monthly Uptime Percentage" means the difference between 100% and the percentage of time during which the Services (as defined herein) are unavailable.

1.2. "Services" means the notification services for the Cloud Service utilized to establish contact between the Customer and end user of the SEW Cloud Services, which include, but are not limited to, SMS text messaging, email, and interactive voice response (IVR) services.

1.3. "Cloud Services" means Customer's deployment of the Cloud Service platform, or other subscription-based, hosted, supported and operated on-demand solution provided by SEW under an Order Form.

2. Scope and General Terms

2.1. Customer shall only use the Services to use and make the Services available to end users in connection with the use of Cloud Services as contemplated in the Order Form.

2.2. Customer agrees that:

a) Customer shall not transfer, resell, lease, license, or otherwise make available the Services (or Cloud Services) to third parties or offer it on a standalone basis, or make any representation, warranty, or guarantee to any end user or third party on behalf of SEW.
b) SEW shall be entitled to use any Customer data that is necessary to provide the Services.
c) Customer's use of the Services will not violate the terms of the Agreement or applicable law.
d) Customer shall not use the Services or Cloud Services to create, train, or improve (director or indirectly) a substantially similar product or service.
e) Customer shall not reverse engineer, decompile, disassemble, or otherwise create, attempt to create or derive, or permit or assist anyone else to create or derive the source code of any Services or Cloud Services.

2.3. SEW shall use commercially reasonable efforts to ensure the Services are available at a Monthly Uptime Percentage of 99.5%, notwithstanding any unavailability or performance issues of the Services caused by or as a result of the following:

a) Factors that are outside of SEW's reasonable control, including, without limitation, any force majeure event, telecommunications provider-related problems or issues, internet access or related problems occurring beyond the point in the network where SEW maintains access and control of the Services.
b) Any actions or inactions of Customer or any third party.
c) Any Customer applications, equipment, software, or other technology, third party equipment, software, etc. not authorized for use with the Services.
d) Routine or scheduled maintenance for which SEW will provide at least twenty-four (24) hours of notice.
e) Problems or issues related to alpha, beta, or not otherwise generally available in SEW features or products.

2.4. Services shall commence at the rates and volumes selected by Customer in the Order Form.

a) For the email message service, in the event that Customer exceeds the number of emails per month selected, SEW shall automatically escalate Customer to the next service tier and corresponding rates. Customer shall thereafter be invoiced according to the rates set forth for the escalated tier for the remainder of the applicable term.
b) For email, text message, and voice call services, at any time Customer may contact SEW to request that its service level be lowered to a lower tier provided however that Client may only make such a request once during any twelve (12)-month period. Customer shall not be entitled to any credits or refunds for unused volumes (regardless of moving between service level tiers).

3. Warranty and Liability

3.1. **DISCLAIMER OF WARRANTY**. THE SERVICES ARE PROVIDED "AS-IS," EXCLUSIVE OF ANY WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED. SEW DOES NOT WARRANT THAT THE SERVICES ARE OR WILL BE ERROR-FREE OR MEET ALL CUSTOMER REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, SERVICES MAY BE SUBJECT TO LIMITATIONS OF THE TELECOMMUNICATIONS PROVIDER, HOSTING ENVIRONMENT, DELAYS, INTERNET SERVICE PROVIDER, THIRD PARTIES, ACTIONS OR INACTIONS OF THE CUSTOMER, AND OTHER PROBLEMS INHERENT TO THE USE OF MASS-MARKET NOTIFICATION SERVICES AND ELECTRONIC COMMUNICATIONS. SEW IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, DELETIONS, LOSS OF DATA, DATA CORRUPTION, THIRD-PARTY PUBLICATION, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS NOT CAUSED BY SEW OR OUTSIDE OF SEW'S REASONABLE CONTROL. TO THE EXTENT SUCH DISCLAIMER CONFLICTS WITH APPLICABLE LAW, THE SCOPE AND DURATION OF ANY APPLICABLE WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. SEW SHALL NOT BE LIABILE AND WILL HAVE NO OBLIGATION TO INDEMNIFY CUSTOMER FOR END USER DATA OR ANY OTHER PERSONALLY IDENTIFIABLE INFORMATION SENT TO SEW.

3.2. **Recordings and Communications Monitoring**. In the event Customer records or monitors any SMS messages, IVR communications, or other communications using the Services, then Customer represents and warrants that it shall comply with all applicable laws prior to doing so at all times. SEW makes no representations or warranties with respect to recording or monitoring telephone calls/IVR communications, SMS messages, or other communications, and recommends that Customer always secure prior consent to record or monitor communications using the Services. Customer acknowledges that these representations, warranties, and obligations are essential to SEW's ability to provide the Services, and further agrees to indemnify SEW and its affiliates or providers in the event of any acts or omissions in connection with recording or

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monitoring IVR communications, SMS messages, or other communications, whether such claims arise under contract, tort, statute, or other legal theory.

4. Additional Terms

4.1. **Short Codes**. If Customer utilizes a short code with SEW as a part of the Services, Customer:

a) Shall not change the short code use case without first having such new use case approved by SEW or the applicable provider.

b) Shall stop sending additional messages to any party that replies by texting “STOP” (or the equivalent) to the short code, except for a single text message confirming that such party has been successfully opted out of the short code.

c) Shall follow all applicable rules, regulations, laws, statutes, or guidelines set by state, local, or federal legal authorities, or as imposed by SEW or its affiliates, providers, etc. pertaining to the use of short codes or voice recordings.

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Exhibit C
Data Retention Policy

1) Data Retention Policy

a) Introduction

i) Smart Energy Water ("SEW")'s policy is to maintain complete and accurate records for the usage, billing, behavior, or any of the specified types of data ("Data") of Customer and its Users, for the duration described for historical reference, contractual or legal requirements, or for any other purposes as set forth in this Data Retention Policy (this "Policy"). The types of Data stored and subsequent durations for each type, described in the Retention Summary set forth in Section 1(h) below, are the recommended and standard retention periods based on legal requirements and practical considerations. SEW offers to store Data for extended periods at an additional fee.

ii) Data retention includes, but is not limited to, paper and electronic records, documentary materials, Customer Data, personally identifiable information, billing records, usage information, etc. Such information is managed and maintained in a manner that protects the integrity of the Data, while ensuring appropriate access for the durations described above.

iii) Upon expiration of the above retention periods, such data shall be destroyed, deleted, or otherwise disposed of according to standard industry guidelines and in compliance with legal requirements, except for those records pertaining to (1) matters under investigation or those matters that are the subject of any claim or litigation, and (2) matters that are anticipated to be the subject of reasonably foreseeable investigation, claim, or litigation.

b) Definitions

i) "Audit Logs" means recordings of key system events, timestamps, and other similar records that maintain evidence of any processes or activities.

ii) "Billing Data" means information regarding the billing information of customers, including credit card information, security codes, expiration dates, billing addresses, names of customers, etc.

iii) "Billing Summaries" means information regarding the costs or charges relating to a customer's usage of utilities maintained over monthly billing periods.

iv) "Customer Data" means personally identifiable information of a Customer's users, which may include name, address, personal Usage information, etc.

v) "Investigation" means business or legal process which requires the retention, examination, or review of any Data.

vi) "Notifications" means logs of the information events (email, IVR, SMS text messaging) sent by Customer y and received by a User.

vii) "Outages" means logs of outage events reported via OMS to the Services, by either the Customer, or if approved, or the User.

viii) "Retention" means storage of Data on either local, cloud-based, or archive storage or servers.

ix) "Usage" means any customer's use of a utility as tracked and maintained by the Services.

x) "User Behavior" means the interaction of Customer's customers on the portal or mobile application, which may include log-on periods, active periods, interactions with particular modules, clicks, etc.

c) General

i) SEW ensures that necessary records, documents, or Data are adequately protected and maintained, and additionally, that such records, documents, or Data are properly disposed of.

ii) SEW shall not use Customer Data except as necessary to provide the Services, or as permitted by the Agreement, or as necessary to comply with the law or binding order of a governmental body.

d) Cloud-Based Storage

i) In maintaining the Data, SEW shall utilize its cloud-based scalable storage solutions to store and display historical usage data, billing information, payment history, etc. SEW shall utilize industry standard methodologies, which shall ensure business continuity, continuous retention for the periods described, data recovery, and availability for its Users.

e) Archiving and Backups

i) SEW shall utilize similar industry standard solutions for archiving, restoring, and backing up Data. Incremental Data (daily usage, user behavior, notifications, outages) is recorded nightly, and full Data backups are executed over the weekend. Data shall be retained in both cloud-based local storage form, as well as array-based replication form offsite to be utilized as back-ups or archives in the event of system failure of the local Cloud-based storage.

f) Destruction and Purging of Data

i) Data that is personal or confidential in nature shall be disposed of according methodologies agreed upon by and between the parties in writing.

ii) Electronic Data shall be subject to secure electronic deletion.

iii) Physical or paper documents shall be shredded using secure consoles through which waste shall be properly screened for disposal.

iv) Specific deletion or destruction processes shall be carried out by an employee of SEW or by an internal or external service provider employed for the purposes of such proper and compliant disposal of Data.

v) Data which has been inactive for a period of twenty-four (24) months shall be deleted.

g) Litigation or Investigation

i) In the event that SEW becomes involved in any litigation or business event that requires access to Data, such Data may need to be archived beyond its active use or as required by law.

ii) Documents shall be retained in the event that they are subject to matters under investigation or those that are subject to any claim or litigation, or those matters that are anticipated to be the subject of reasonably foreseeable investigation, claim, or litigation.

h) Retention Summary

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i) SEW, for the purposes of historical reference, contractual or legal requirements, or other requirements as a part of its delivery and maintenance of Services or Cloud Services to Customer, shall retain the following types of Data for the durations set forth, and pursuant to the terms set forth in this Data Retention Policy.

Data Type	Description	Duration in Months
Usage	Monthly Read	24
	Daily Read	12
	Hourly Read	6
	15-minute Read	3
Billing Data/Summary	Overview of Past Bills	24
User Behavior	User Interactions with Portal	12
Notifications	Text Message, IVR, Email Logs	6
Audit Logs	Timestamps, Recordings of Key Events	6
Bill PDF Storage	* Add-on Feature	0
Outages	History of Reported Outages	12

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CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: iPaySmart Inc., a Delaware corporation,
15495 Sand Canyon Avenue, Suite 100
Irvine, CA 92618

Name of Contract: Order Form for Premium Payment Services dated November 6, 2024.

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Order Form for Premium Payment Services dated November 6, 2024 are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this Addendum is the date that the governing body of the City approves and enters into the Contract and this Addendum at a duly called open public meeting. The City hereby represents and warrants that as of the date the City enters into the Contract and this Addendum, the City has secured all requisite approvals contemplated by the foregoing sentence.

(d) Vendor represents that it is authorized to transact business in the State of Florida.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this Addendum are governed by Florida law.

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(g) Vendor and the City acknowledge that the City's entry into the Contract, remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this Addendum, it has had an opportunity to review this Addendum with its legal counsel and fairly negotiated this Addendum at arm's length.

(j) The City acknowledges that the Contract and this Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this Addendum.

§ 2. <u>Definitions.</u>

Words used in the Contract and Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Contract Documents means the Order Form for Premium Payment Services dated November 6, 2024; and City of Winter Haven Contract Addendum.

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. <u>Primacy of Addendum.</u>

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This Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, the terms of this Addendum shall be primary and shall control over any expressly conflicting background term and conditionin the Contract Documents.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts. Vendor hereby agrees to accept service of process by mail to 15495 Sand Canyon, Ste. 100, Irvine, CA 92618.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's

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payment obligations to Vendor of any kind or type, the City or the Vendor may immediately terminate the Contract and this Addendum and be released from any future responsibility or liability thereunder. The City hereby represents and warrants that it has received approval for funding sufficient to pay its fee obligations set forth in the Supplemental Order Form.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2024), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records

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stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall be entitled to any remedies set forth in Section 119.0701 of Florida Statutes, applicable law, or the Contract.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that, except as may otherwise be set forth in the Agreement, the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. .

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This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

(c) This Section shall survive termination of the Contract and this Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract, this Addendum, the Contract Documents, and the resulting contract with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Vendor acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this Addendum, the Contract Documents, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is

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terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

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§ 10. Assignment by Vendor.

The contract expressed by the Contract, this Addendum, and the Contract Documents shall not be assigned by either party, or any successor thereto, in whole or in part without the prior written consent of the other party, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 9 and 10*]

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City of Winter Haven Contract Addendum
to:
Supplemental Order Form for Premium Payment Services dated November 6, 2024

Signature Page for Vendor

Vendor:

Executed this 30th day of July, 2025

By: DocuSigned by: Harman Sandhu B15E7D788BA6426...

Name: Harman Sandhu

Title: President

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City of Winter Haven Contract Addendum
to:
Supplemental Order Form for Premium Payment Services dated November 6, 2024

City of Winter Haven, Florida:

Executed this ____ day of _____, 2025

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney

DATE: August 25, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Gary M. Hubbard, Water Department Director

SUBJECT: Water Department – Datamatx Printing and Mailing Services

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BACKGROUND

Since 2019, the Water Department has partnered with First Billing Services (FBS) to manage the printing and mailing of customer bills. The Department will soon end its contract with FBS and transition to a new partnership with Smart Energy Water (SEW). This transition includes the Water Department taking on the direct management of its printing and mailing services.

Under the prior arrangement, FBS utilized Datamatx to perform bill printing and mailing on the City's behalf. The Water Department has an existing sole source agreement with Datamatx from other projects and will now be using that agreement to directly contract with them for billing, printing, and mailing needs.

What This Means for Customers

- Seamless transition for customers.
    - The format and appearance of the customer bills will remain consistent with the current design.
    - There will be no change in printing and mailing schedule.
- Rate stability, with printing and mailing rates locked in at current levels for the next three years.

FINANCIAL IMPACT

Funds are budgeted in account 402-03-918-4702 and 402-03-918-4201 in the amount of $225,000 in fiscal year 2024/2025, and in the amount of $230,000 in 2025/2026 for Datamatx under postage, printing, and mailing.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Infrastructure
- **Goal:** 3.4 – Pursue emerging opportunities to embrace new technology, infrastructure, and enterprise opportunities.
- **Strategy:** 3.4.2 –Ensure an organizational culture that embraces innovation and the adoption of new technology.

RECOMMENDATION

Staff recommends the City Commission approve the contract with Datamatx, and authorize the City Manager, or his designee, to take any and all actions necessary thereto.

ATTACHMENTS

- Datamatx Service Agreement
- Datamatx Coercion for Labor and Services Affidavit

CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("City Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: DATAMATX, INCORPORATION, a Georgia corporation
3146 Northeast Expressway NE
Atlanta, GA 30341-5345

Name of Contract/Contract Documents: Master Service Agreement with Terms and Conditions

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this City Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Master Service Agreement with Terms and Conditions are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this City Addendum is the date that the governing body of the City approves and enters into the Contract and this City Addendum at a duly called open public meeting.

(d) Vendor represents that it is authorized to transact business as a foreign corporation in the State of Florida, in accordance with § 607.1501 of the Florida Statutes, as a mailing company engaged in interstate commerce prepared outside the state.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this City Addendum are governed by Florida law.

(g) Vendor and the City acknowledge that the City's entry into the Contract,

remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this City Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this City Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this City Addendum, it has reviewed this City Addendum with its legal counsel and fairly negotiated this City Addendum at arm's length.

(j) The City acknowledges that the Contract and this City Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this City Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this City Addendum.

§ 2. Definitions.

Words used in the Contract and City Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. Primacy of City Addendum.

This City Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, whether expressly made or determined to exist by implication, the terms of this City Addendum shall be primary and shall control over any conflicting term, condition, duty, and implication found in the Contract Documents. This paragraph shall not apply to

contractual obligations related to USPS postage funding by or on behalf of the City of Winter Haven, Florida, by Vendor.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this City Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the City Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's payment obligations to Vendor of any kind or type, the City or the Vendor may immediately terminate the Contract and this City Addendum and be released from any future responsibility or liability thereunder, with the exception of USPS postage purchased or postage liability incurred for work in process by Vendor.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2025), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO

PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall enforce this contract provision, which may include immediate termination.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

(c) This Section shall survive termination of the Contract and this City Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract and this City Addendum, and the resulting contract with the City.

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(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this City Addendum, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from

giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

§ 10. Force Majeure.

Delays in performance due to fire; flood; hurricane; tornado; earthquake; windstorm; unavailability of materials or equipment; war; declaration of hostilities; terrorist act; civil strife; strike; labor dispute; epidemic; or act of God, shall be deemed events of

"Force Majeure" and such delays shall be excused in the manner herein provided. If a Party is delayed in any work or performance pursuant to the Agreement due to the occurrence of an event of Force Majeure, the date for action required or contemplated by the Agreement shall be extended by the number of days equal to the number of days such party is delayed. The party seeking to be excused based on an event of Force Majeure shall give written notice of the delay indicating its anticipated duration. Each party shall use its best efforts to rectify any conditions causing the delay and will cooperate with the other party, except for the incurrence of unreasonable additional costs and expenses, to overcome any loss of time that has resulted.

§ 11. Notices.

All notices under the Contract, and this City Addendum, shall be in writing and may be given by any of the following methods: (1) personal delivery, (2) certified mail, postage prepaid, or (3) overnight delivery service, prepaid, when sent to the following:

THE CITY:

T. Michael Stavres, City Manager
City of Winter Haven, Florida
Physical Address: 451 Third Street NW, Winter Haven, Florida 33831

WITH COPY TO: (*which **shall not** constitute notice*)

Frederick J. Murphy, Jr., City Attorney
Boswell & Dunlap, LLP
Post Office Drawer 30, Bartow, Florida 33831
Physical Address: 245 South Central Avenue, Bartow, Florida 33830

VENDOR:

Vendor's address for notices is specified above on Page 1.

For purposes of the Contract and this City Addendum, notice shall be deemed to have been received when either deposited in a United States Postal Service mailbox or personally delivered with signed proof of delivery, whichever is later in time.

§ 12. Compliance with Laws.

Vendor agrees to comply with any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of general applicability of the United States of America, of the State of Florida, of Polk County, of City of Winter Haven, and of any and all other public authority which may be applicable.

§ 13. Assignment by Vendor.

The contract expressed by the Contract and this City Addendum, shall not be assigned by the Vendor, or any successor thereto, in whole or in part without the prior written consent of the City, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 10 and 11*]

City of Winter Haven Contract Addendum
to:
Master Service Agreement with Terms and Conditions

Signature Page for Vendor

Vendor: DATAMATX, INCORPORATION, a Georgia corporation

Executed this 15 day of September 2025 2025 (SS)

By: _____

Name: W. Scott Stephens

Title: President

STATE OF GA
COUNTY OF Dekalb

The foregoing instrument was acknowledged before me, by means of □ physical presence or □ online notarization, this 15 day of Sep, 2025, by W. Scott Stephens as President of DATAMATX, INCORPORATION, a Georgia corporation, on its behalf, □ who is personally known to me or ☑ who has produced GA DL as identification.

_____
Notary Public, State of GA
Printed Name: Michael Belle Isle
My commission expires: 04/14/28

MICHAEL BELLE ISLE
NOTARY PUBLIC
My Commission Expires
April 14, 2028
DEKALB COUNTY, GEORGIA

City of Winter Haven Contract Addendum
to:
Master Service Agreement with Terms and Conditions

City of Winter Haven, Florida:

Executed this _____ day of _____, 2025

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney

Affidavit Regarding the Use of Coercion for Labor and Services

State of Georgia
County of DeKalb

Name of Vendor: DATAMATX, INCORPORATED
Address: 3146 Northeast Expressway, Atlanta, GA 30341-5345
Phone Number: 770-936-5600
Authorized Representative's Name: Steve Berman
Authorized Representative's Title: Dir. of Risk & Compliance

Effective July 1, 2024, Section 787.06(13), Florida Statutes, requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity to provide an affidavit signed by an officer or representative under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

As the person authorized to sign on behalf of the vendor, I certify that the vendor identified above does not:

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine or threaten to restrain, isolate, or confine any person without lawful authority and against her or his will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit; or
- Provide a controlled substance as outlined in Schedule I or Schedule II of Florida Statute 893.03 to any person for the purpose of exploitation of that person.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

DATAMATX, INCORPORATED

By: Steven G. Berman (Printed Name)
Its: Dir. Risk & Compliance (Title)

The foregoing instrument was acknowledged before me by means of ☐ physical presence, or ☐ online notarization, this 29th day of August, 2025, by Steven Berman, as Dir. Risk Compliance of DATAMATX, INCORPORATED, a Georgia corporation, on behalf of the said DATAMATX, INCORPORATED, who is ☑ personally known to me or ☐ produced _____ as identification.

ANGELA S RUBLE NOTARY PUBLIC COBB COUNTY

Notary Public, State of Georgia

Affidavit Regarding Foreign Countries of Concern

Angela S Ruble
NOTARY PUBLIC
COBB COUNTY, GEORGIA
My Commission Expires
02/02/2028

Name of Vendor: DATAMATX, INCORPORATED
Address: 3146 Northeast Expressway, Atlanta, GA 30341-5345
Phone Number: 770-936-5600
Authorized Representative's Name: Steve Berman
Authorized Representative's Title: Dir. of Risk & Compliance

Effective January 1, 2024, Section 287.138, Florida Statutes, prohibits a Florida governmental entity from entering into a contract that may grant or allow access to any individual's personal identifying information unless the contracting entity furnishes an affidavit signed by an officer or representative under penalty of perjury concerning foreign countries of concern.

As the person authorized to sign on behalf of the vendor, I certify that:

- The vendor is not owned by the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, or by any agency of or any other entity of significant control of any of such foreign country of concern.
- The government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic does not have a controlling interest in the vendor.
- The vendor is not organized under the laws of and does not have its principal place of business in the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

DATAMATX, INCORPORATED

By: Steven G. Berman (Printed Name)
Its: Dir. Risk & Compliance (Title)

The foregoing instrument was acknowledged before me by means of ☑ physical presence, or ☐ online notarization, this 29th day of August, 2025, by Steven Berman as Dir Risk Compliance of DATAMATX, INCORPORATED, a Georgia corporation, on behalf of the said DATAMATX, INCORPORATED, who is ☑ personally known to me or ☐ produced _____ as identification.

Notary Public, State of Georgia

ANGELA S RUBLE
NOTARY PUBLIC
COBB COUNTY, GEORGIA

Angela S Ruble
NOTARY PUBLIC
COBB COUNTY, GEORGIA
My Commission Expires
02/02/2028

DATE: September 3, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Charlie Bird, Assistant City Manager-Public Safety

FROM: Frederick J. Murphy, Jr., Esquire, City Attorney

SUBJECT: Approval of Settlement Agreements with Purdue Pharma L.P. and the Sackler Family; and Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, Sun, and Zydus regarding Opioid Litigation

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BACKGROUND

After years of negotiations, Florida's Attorney General has recently announced that nine additional Settlements have been reached that would resolve all opioid litigation brought by the State of Florida and local political subdivisions against the following pharmaceutical distributors, Purdue Pharma L.P. and the Sackler Family (Purdue); and Alvogen, Amneal, Apotex, Hikma, Indivior, Mylan, Sun, and Zydus (Secondary Manufacturers).

The City Commission has already approved an Interlocal Agreement with Polk County, Florida, and other municipalities referenced therein for the County to use Opioid Settlement Funds to more fully implement the Polk County Florida Opioid Abatement Plan in November, 2021.

The Settlement contemplates that the Sacklers will be paying an aggregate of $6.5 billion in 16 payments over 15 years, including $1.5 billion on the settlement's Effective Date (expected to be in 2026), though some amounts are subject to discounted prepayments. These amounts are in addition to amounts available from the Purdue estate including amounts available on the Effective Date (expected to be around $900 million) and amounts that may be paid in the future.

The Settlement requires the settling Secondary Manufacturers to pay hundreds of millions of dollars to abate the opioid epidemic. The Settlements are expected to provide a maximum of approximately $720 million in cash to participating states and subdivisions to remediate and abate the impacts of the opioid crisis. Depending on participation by states and subdivisions the Settlements require:

Alvogen to immediately pay up to approximately $19 million;

Amneal to pay up to approximately $74 million over 10 years, and to provide either approximately $177 million of its generic version of the drug Narcan or up to an additional approximately $44 million in cash;

Apotex to immediately pay up to approximately $65 million;

Hikma to immediately pay up to approximately $98 million, and to provide either approximately $35 million of its naloxone product or up to an additional approximately $7 million in cash;

Indivior to pay up to approximately $75 million over five years, a portion of which, at the election of the state, could be paid in the form of Indivior's branded buprenorphine and/or nalmefene products with a value of up to $140 million;

Mylan to pay up to approximately $290 million over nine years;

Sun to immediately pay up to approximately $32 million; and

Zydus to immediately pay up to approximately $15 million.

Pursuant to the Florida Opioid Allocation and Statewide Response Agreement between the State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida dated November 15, 2021, the Regional percentage by County for Abatement Fund is 2.150483025298% for all of Polk County. Based on that percentage, Polk County as an individual governmental entity, is entitled to receive 1.558049828484% and the City of Winter Haven is entitled to receive 0.097033576087% of Opioid Settlement Funds.

Approval and execution of the Settlement Agreements will also constitute a Release of Claims that the City may have related to the opioid crisis as to those entities.

FINANCIAL IMPACT

There is no direct Financial Impact to the City as a result of these Settlements, however, they will generate funds on behalf of the City of Winter Haven which pursuant to the above mentioned Interlocal Agreement with Polk County will be remitted to Polk County.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Community Safety
- **Goal:** 5.2 – Ensure the ability to meet the service demands as the population grows.

RECOMMENDATION

City staff and the City Attorney recommend that the City Commission approve the Settlement Agreements and authorize the City Attorney to execute same on behalf of the City of Winter Haven and to take all other necessary actions related thereto.

DATE: September 9, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Charlie Bird, Assistant City Manager

FROM: Drew Neubrand, Fire Chief

SUBJECT: MOU for delivery of Emergency Medical Services

BACKGROUND

This Memorandum of Understanding outlines the operational framework between Polk County and the City of Winter Haven Fire Department (WHFD) for the provision of Advanced Life Support (ALS) emergency medical services. It establishes that WHFD will operate under the medical direction of the Polk County Medical Director, who retains oversight of all patient care decisions and quality assurance processes. The agreement acknowledges that WHFD will staff response apparatus with certified personnel and maintain equipment in accordance with Florida Administrative Code. This MOU also specifies logistics for supply delivery, personnel data sharing, and internal distribution protocols. The term of the agreement is three years, with provisions for termination upon breach or mutual notice, and includes legal governance under Florida law with venue in Polk County. This document ensures a collaborative and compliant approach to emergency medical response within the City of Winter Haven.

FINANCIAL IMPACT

There is no financial impact associated with this agreement.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Community Safety
- **Goal:** 5.4 – Ensure local government functions are aligned with community safety best practices.
- **Strategy:** 5.4.1 – Develop and maintain a City-wide Comprehensive Emergency Management Plan (CEMP) that covers risk, response, and vulnerability.

RECOMMENDATION

Staff recommends the City Commission approve the Memorandum of Understanding (MOU) and to authorize the City Manager or his designee to enter into the MOU for delivery of emergency medical services, and take any additional action necessary thereto.

ATTACHMENT

- MOU for Delivery of Emergency Medical Services

MEMORANDUM OF UNDERSTANDING FOR DELIVERY OF EMERGENCY MEDICAL SERVICES WITHIN MUNICIPALITIES

The information contained in this Memorandum of Understanding ("MOU") is consistent with Sections 401.265 and 401.435 of the Florida Statutes, (2024) and is mutually agreed upon and entered into by and between Polk County, a political subdivision of the State of Florida ("EMS AUTHORITY"), and the City of Winter Haven, Florida, a municipal corporation organized and existing under the laws of the State of Florida by and through the Winter Haven Fire Department ("FIRST RESPONDER AGENCY" and/or "CITY").

RECITALS

WHEREAS the EMS AUTHORITY and FIRST RESPONDER AGENCY wish to establish responsibilities for personnel and the EMS Authority's Medical Director; and,

WHEREAS, the EMS AUTHORITY and FIRST RESPONDER AGENCY wish to establish dispatch protocols and establish the documentation required for patient care pursuant to Section 401.435 of the Florida Statutes, (2024).

NOW THEREFORE, the EMS AUTHORITY and FIRST RESPONDER AGENCY, in consideration of the mutual benefits flowing from each to the other do hereby agree as follows:

INCORPORATION OF RECITALS

The foregoing recitals are incorporated herein by the parties as true and correct statements.

DISPATCH PROTOCOLS

The FIRST RESPONDER AGENCY will use the EMS AUTHORITY's dispatch center and their assigned radio frequencies during EMS responses. The EMS AUTHORITY is responsible for dispatch and communication to their respective units.

The FIRST RESPONDER AGENCY will dispatch to emergencies as follows:

1. The FIRST RESPONDER AGENCY will respond to medical emergencies when (a) dispatched by their agency, (b) by the EMS AUTHORITY, or (c) when made aware of a medical emergency within their primary dispatch area. The EMS AUTHORITY will provide an Emergency Medical Dispatch (EMD) code when notifying FIRST RESPONDER AGENCY of medical emergencies within their municipality.
2. The FIRST RESPONDER AGENCY will communicate with EMS dispatch on a

frequency and in radio language that is compliant with current local practice and Federal Communications Commission mandates. All communications must be compliant with Florida regulations governing emergency response agencies.

3. Communications between the FIRST RESPONDER AGENCY and the EMS AUTHORITY while en route should be limited to the following situations: (1) when the patient (and/or scene) is unstable or (2) when other vital information needs to be transmitted, which will affect the outcome of the patient or the safety of the responding personnel.

FIRST RESPONDER AGENCY ROLES AND RESPONSIBILITIES

EMS AUTHORITY's Medical Director will provide medical direction to the FIRST RESPONDER AGENCY. Using another medical director will negate and cancel this Memorandum of Understanding.

1. The FIRST RESPONDER AGENCY will furnish evidence of adequate insurance coverage for claims arising from injury to or death of persons and damage to the property of others resulting from any cause for which the FIRST RESPONDER AGENCY is liable. The FIRST RESPONDER AGENCY must provide insurance in such sums and under such terms as required by the Department of Health, EMS Bureau. Instead of such insurance, FIRST RESPONDER AGENCY may furnish a certificate of self-insurance evidencing that the FIRST RESPONDER AGENCY has established an adequate self-insurance plan to cover such risks, and the plan has been approved by the Office of Insurance Regulation of the Financial Services Commission. Proof of insurance is required before permitting any vehicle.

2. The FIRST RESPONDER AGENCY ensures that all ALS Non-Transport permitted vehicles are staffed according to Administrative Code 64J-1.003 and carry all provided ALS equipment as deemed by the EMS Authority and 64J-1.003.

3. The FIRST RESPONDER AGENCY will provide EMS AUTHORITY with vehicle information to include but not limited to: vehicle identification number(s) (VIN), year of vehicle(s), make of vehicle (s). This information is required before permitting any vehicle.

4. All requests to expand the existing FIRST RESPONDER AGENCY's ALS program will be mutually agreed upon by the agency and the EMS Authority, based on analytics that demonstrate what is in the best interest of Polk County's and the City's residents, visitors, and businesses.
5. FIRST RESPONDER AGENCY reserves the right to select, procure, and manage its records management system and be the first contact for all maintenance and customization processes. The FIRST RESPONDER AGENCY will utilize electronic EMS reporting software meeting mutually agreed-upon parameters, allowing the EMS AUTHORITY immediate and instant access to perform quality assurance reviews and meet state EMS

reporting requirements. If any costs are incurred resulting from securing the EMS AUTHORITY immediate and instant access, it shall be paid by the FIRST RESPONDER AGENCY.

The software will allow for data sharing and may include supplies and equipment management tools. The FIRST RESPONDER AGENCY may purchase the software through the EMS Authority's procurement and vendor's procedures if the desired software option is available.

6. The FIRST RESPONDER AGENCY will utilize data analytics and well-developed capacity models to determine EMS response zones within their jurisdiction. All response zones will be determined by what is in the best interest of the citizens and visitors of Polk County and the City while honoring current OPA contracts.

7. The EMS Authority will collect data regarding clinical and operational performance. The EMS Authority will provide the FIRST RESPONDER AGENCY with quarterly reports defining the cost of their municipal ALS program, including equipment, supplies, and maintenance. The FIRST RESPONDER AGENCY is responsible for inventory, supply rotation, and medication tracking.

   FIRST RESPONDER AGENCY is responsible for all equipment given, loaned, or in possession of for use of patient care and will submit to inspection of said equipment at the request of the EMS AUTHORITY. FIRST RESPONDER AGENCY will replace or repair any lost, stolen, or damaged equipment. Replacement or repair will be conducted through the EMS AUTHORITY's procurement and vendor's procedures to ensure quality and compatibility.

8. FIRST RESPONDER AGENCY will continue to assist the EMS AUTHORITY on the scene and during transport when requested and available. Patient care procedures performed by the FIRST RESPONDER AGENCY'S EMT or Paramedic will be done under the EMS AUTHORITY's Medical Director's direction. Refer to the current Clinical Care Guidelines for guidance of patient care responsibility and documentation requirements.

EMS AUTHORITY'S ROLE AND RESPONSIBILITIES

1. The EMS AUTHORITY maintains control of all aspects of patient care, including treatment and transport destination decisions. Unless negligent, if discrepancies exist between EMS AUTHORITY and FIRST RESPONDER AGENCY regarding patient care, full responsibility for managing patient care, encompassing both treatment and transport destination decisions shall be awarded to the EMS AUTHORITY'S paramedic or officer. The FIRST RESPONDER AGENCY'S paramedic may assist in continuing patient care under the EMS AUTHORITY's paramedic discretion during transport. Any conflicts regarding patient care between the EMS AUTHORITY and FIRST RESPONDER AGENCY paramedic will be reported immediately to their respective supervisory officers and the EMS AUTHORITY's Office of Medical Direction.
2. EMS AUTHORITY will provide medical direction to all paramedics and EMTs

employed by the FIRST RESPONDER AGENCY as long as the FIRST RESPONDER AGENCY meets the requirements listed in the MOU. Medical direction includes medical liability regarding rendering patient care by paramedics of the FIRST RESPONDER AGENCY.

3. EMS AUTHORITY, along with a designated person of the FIRST RESPONDER AGENCY will conduct continuous quality improvement activities through the EMS AUTHORITY. FIRST RESPONDER AGENCY's designated person will handle any FIRST RESPONDER AGENCY employee quality assurance issues that need resolution from Quality Assurance ("QA") meetings. FIRST RESPONDER AGENCY will, at a minimum, QA the same types and frequency of calls according to the EMS AUTHORITY. EMS AUTHORITY QAs issued shall be answered and returned to have a complete overview of the case in question. The FIRST RESPONDER AGENCY will provide the EMS AUTHORITY findings and resolutions to QA issues within fourteen (14) calendar days of first notification. The EMS AUTHORITY will provide the FIRST RESPONDER AGENCY findings and resolutions to QA issues brought forth within fourteen (14) calendar days of first notification.

4. The EMS AUTHORITY will provide to the FIRST RESPONDER AGENCY ALS equipment, including a defibrillator, airway management equipment, medications, and controlled substances as approved by the EMS AUTHORITY'S Medical Director, to include resupply of expendables.

5. The EMS AUTHORITY will provide to the FIRST RESPONDER AGENCY waste from biohazardous items, expired medications, and controlled substances.

6. If any medical equipment is damaged due to negligence by the FIRST RESPONDER AGENCY it will be the FIRST RESPONDER AGENCY'S responsibility to purchase or reimburse the EMS AUTHORITY for the cost of the equipment. The EMS Authority will maintain a file on all approved paramedics and Emergency Medical Technicians (EMTs) employed by the FIRST RESPONDER AGENCY. This includes any EMT personnel who would at any time have a reason to drive a permitted non-transport vehicle or provide patient care on the scene.

7. During emergencies requiring the establishment of the National Incident Management System (NIMS), EMS authority personnel will work under the incident command structure of the municipality in which they operate. The FIRST RESPONDER AGENCY shall request from the EMS AUTHORITY a Battalion Chief Officer from the EMS AUTHORITY to function in the incident command system and to maintain authority and control of the EMS AUTHORITY's medic units.

FIRST RESPONDER QUALIFICATIONS

FIRST RESPONDER AGENCY must ensure all individuals are eligible to perform as a First Responder under this MOU.

To provide any BLS procedure(s), all EMT-certified personnel must:

1. Meet the requirements contained in Section 401.27 of the Florida Statutes (2024), and F.A.C. 64J 1.008 as to certification and recertification and maintain competency through continuing medical education and;

2. Successfully complete an approved CPR course by the EMS AUTHORITY and F.A.C. 64E-2.038. The First Responder must maintain current certification in CPR during the period he/she functions as a First Responder with the FIRST RESPONDER AGENCY.

3. Must successfully complete USDOT EMT-B Training Course or an EMT-B Refresher course that includes an airway module to utilize a supraglottic airway on a cardiac arrest victim. In addition, the EMT First Responder must have a current EMT certification from the Florida Department of Health-EMS Office; provide annual training documentation of specific device used and meet# 2 above as to CPR requirements. Documentation of each certification/training must be made available to the EMS AUTHORITY upon their request.

4. Provide proof to EMS AUTHORITY of any certification renewal within 30 days of renewal and on a quarterly basis with any updates of personnel changes.

IF AN EMPLOYEE'S EMT OR BCLS/BLS, CPR CERTIFICATION LAPSES, HE/SHE WILL NOT CONTINUE TO FUNCTION IN THE CAPACITY OF AN EMT.

In order to provide any ALS procedure(s), all paramedic personnel:

1. Must meet the requirements contained in Section 401.27 of the Florida Statutes (2024), and F.A.C. 641-1.009.

2. Successfully complete the USDOT EMT-P Training Course through a state-approved EMS training center. Additionally, the Paramedic First Responder must have a current paramedic certification from the Florida Department of Health-EMS Office, possess a current EMS AUTHORITY and F.A.C. 64E-2.038 ACLS card, and successfully complete EMS Paramedic training through or approved by the EMS AUTHORITY.

3. Whenever renewal of any certification occurs, proof of that renewal must be sent to EMS AUTHORITY within 30 days of renewal.

4. Under no circumstance will any personnel be allowed to function in the capacity of paramedic if any certification lapses.

OTHER FIRST RESPONDER AGENCY REQUIREMENTS FOR BOTH EMT AND PARAMEDIC DISCIPLINES

1. FIRST RESPONDER AGENCY will submit to EMS AUTHORITY a list of all EMT and Paramedic First Responders utilizing the Supraglottic Airway or will be assisting with ALS procedures. This listing will include name and current State of Florida EMT or Paramedic certification number. The FIRST RESPONDER AGENCY will submit updated listings

to the EMS Authority as needed or annually due to personnel changes in the organization (listing may be electronic).

2. Proof of the following information must be submitted annually or when requested by the EMS AUTHORITY:

    a. Current paramedic/EMT Certification by the State of Florida for all working EMT's and paramedics. Per state requirement, copy of the certification must be carried at all times during work periods.

    b. Current cardiopulmonary resuscitation card (BCLS) as approved by EMS AUTHORITY and F.A.C. 64E-2.038 for EMT certified personnel. Per state requirement, copy of the certification must be carried at all times during work periods.

    c. Current (AHA) Advanced Cardiac Life Support (ACLS) as approved by EMS AUTHORITY and F.A.C. 64E-2.038 for all paramedic certified personnel.

    d. Copy of driver's license and a proof of valid driver's license status. The FIRST RESPONDER AGENY is responsible for affirming the status of each driver's license.

    e. Copy of a completed 16-hour Emergency Vehicle Operators Course (EVOC) or its equivalent (i.e. Coaching the Emergency Vehicle Operator "CEVO") certification, as well as annual updated EVOC certification or class for any and all personnel that may drive a vehicle with a State of Florida EMS ALS obtained through EMS AUTHORITY.

3. Lists validated by learning management system and submitted by the ranking medical officer from a participating FIRST RESPONDER AGENCY are sufficient. Records requests for copies of credentials will be available on premises of the FIRST RESPONDER AGENCY and may be fulfilled by a prescheduled onsite visit by Office of Medical Direction (the medical director's office) ("OMD"). (Copies may be electronic).

FIRST RESPONDER RESPONSIBILITIES

First Responders shall:

1. Upon request, provide electronic documentation of current successful completion of a Florida Emergency Medical Responder course, EMT certification, Paramedic certification or any other training requirement from the EMS Authority Medical Director.
2. Maintain a current CPR card, approved through EMS AUTHORITY and F.A.C. 64E-2.038 successful course completion card. Paramedic first responders must maintain a current ACLS Provider card, approved through EMS AUTHORITY and F.A.C.

64-E-2.038. Electronic cards (E-Cards) are acceptable.

3. Upon arrival at the emergency scene, FIRST RESPONDER AGENCY will assess scene safety and determine whether it is feasible to enter. If the scene is not safe, FIRST RESPONDER AGENCY will retreat to safety and notify other responding emergency unit(s) of the unsafe situation.

4. If the scene is safe, FIRST RESPONDER AGENCY will begin assessment of the patient(s); when indicated, maintain ABCs and spinal immobilization during assessment and follow universal precautions. All care on scene will be rendered in accordance with the current Clinical Care Guidelines of the EMS AUTHORITY entering this MOU.

5. FIRST RESPONDER AGENCY will determine the patient's status and prior to the responding EMS AUTHORITY's crew arriving, will inform the crew of any unfavorable conditions. If the scene is stable, FIRST RESPONDER AGENCY will continue to provide ALS or BLS care to the patient(s) based on their respective department's status [ALS or BLS designation stated on page six (6) of this MOU] and provide at a minimum a verbal report to EMS AUTHORITY's personnel upon their arrival and prior to departure.

6. FIRST RESPONDER AGENCY personnel will use a Supraglottic Airway device only on a cardiac arrest victim and only if an EMT or a paramedic is certified with proper training. For EMT-B, proper training includes airway module and Supraglottic Airway usage training. For paramedics, proper training includes Supraglottic Airway usage training.

7. Refrain from smoking or use of tobacco products while providing patient care.

8. Comply with the signed MOU between the FIRST RESPONDER AGENCY and the EMS AUTHORITY.

DOCUMENTATION OF PATIENT CARE RENDERED BY THE FIRST RESPONDER AGENCY:

1. If feasible, FIRST RESPONDER AGENCY will provide written documentation of patient demographics, vitals (with time taken), chief complaint, age and sex of patient, along with assessment findings, interventions, by who performed, and time performed to the responding EMS crew prior to their departure from the scene.

2. If time constraints are such on the scene as to render the completion of written documentation unfeasible, the FIRST RESPONDER AGENCY will provide such information to the EMS AUTHORITY's crew verbally on scene and in written form as soon as practicable to the EMS AUTHORITY after the EMS AUTHORITY's crew departs the scene. Written documentation must include the EMS run report number for identification purposes and is to be considered confidential in accordance with HIPAA

regulations.

3. If BLS/ALS assistance or any procedure was performed by either EMTs or Paramedics that respond to the Emergency (" p a r a m e d i c responder"), the FIRST RESPONDER AGENCY will complete all documentation showing what procedure(s) was/ were performed, and the signature of the paramedic responder that performed such procedure(s) prior to the completion of the shift via the electronic Patient Care Report (ePCR) used by the FIRST RESPONDER AGENCY.

4. FIRST RESPONDER AGENCY agrees to participate in and complete the electronic Patient Care Report (ePCR) to maximize quality patient care and to assure proper oversight of all medical treatment provided through the Office of Medical Direction Quality Assurance (Q/A) review, as well as comply with State of Florida data reporting obligations. FIRST RESPONDER AGENCY reserves the right to purchase and maintain electronic Patient Care Reporting (ePCR) systems that fit their organizational needs. First Responder Agency understands and agrees to give 24-hours access and/or create secure access for the EMS Authority pursuant to Sections 401.265 and 401.435 of the Florida Statutes (2024). FIRST RESPONDER AGENCY shall submit all medical related records to the EMS AUTHORITY and give EMS AUTHORITY immediate and full access to EMS Records Management Systems (RMS). FIRST RESPONDER AGENCY personnel will complete an ePCR prior to the end of their respective shift on the same date as the call was run unless not able to do so based on times of run.

OTHER AREAS OF AGREEMENT

1. The EMS AUTHORITY and the FIRST RESPONDER AGENCY will notify each other when training opportunities occur which may be of mutual interest.

2. The FIRST RESPONDER AGENCY may perform automated external defibrillation in compliance with Florida law including but not limited to Section 401.2915 of the Florida Statutes (2024).

3. The EMS AUTHORITY will keep all medically related supplies in quantity levels as prescribed by the Office of Medical Director. The EMS AUTHORITY will provide the FIRST RESPONDER AGENCY with any updates and/or changes in supplies and equipment, in the form of memos and any training developed for the updates and/or changes.

4. EMS AUTHORITY will deliver supplies to one location agreed upon by both parties. The FIRST RESPONDER AGENCY will be responsible for further distribution to their respective individual units or stations. All medical supplies will be ordered via an electronic format (currently fssupply@polk-county.net).

5. The FIRST RESPONDER AGENCY will limit radio traffic to receiving facilities as noted in current Clinical Care Guidelines by the Medical Director.

TERM AND TERMINATION

TERM. The term of this MOU shall be three (3) years unless terminated by either party by written notice to the other within thirty (30) days from the expiration of the then-current term.

TERMINATION. Either party may terminate this MOU prior to the expiration of the Term upon written notice to the other party only as follows: If either party breaches a material provision of this Agreement and such breach is not cured within 30 days after written notice has been given to the breaching party. In that event, the MOU will be considered terminated and all supplied resources will be returned to the EMS AUTHORITY within 90 days.

NOTIFICATION OF EXPOSURE TO INFECTIOUS DISEASE

The EMS AUTHORITY will log on the uniform run report that the FIRST RESPONDER AGENCY responded to the scene so that appropriate personnel can be notified if a potential for infectious disease exposure is determined to exist.

This MOU will be filed with the Department of Health, Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin C18, Tallahassee, Florida 32399-1738, by the EMS Authority, where it will be retained as part of the EMS licensee's overall file.

Effective Date of MOU_____2025.

GOVERNING LAW AND VENUE

This MOU is to be construed in accordance with the laws of the State of Florida. Venue for any legal actions arising under this MOU shall be exclusively in the State Courts of competent jurisdiction in Polk County, Florida.

NOTICES

Any notice required by this MOU shall be in writing and shall be either delivered in person, sent by overnight courier such as United Parcel Service or Federal Express, or mailed by United States Mail, certified mail with return receipt requested and all postage charges prepaid. Except where receipt is specifically required in this MOU, any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed to be effective three days after the date of postmark; notices delivered in person shall be effective upon delivery; and notices sent by overnight courier shall be effective as of the next business day after being placed into the hands of the courier service, properly addressed; and any time period shall begin running as of that date, whether or not the notice is actually received. Notices shall be given in the following manner, or in such other manner as may be directed by either party, in writing, from time to time:

To FIRST RESPONDER AGENCY/CITY: City of Winter Haven
Attention: Drew Neubrand, Fire Chief

451 Third Street NW
Winter Haven, FL 33881

With a copy to:
(which shall not constitute notice)
Frederick J. Murphy, Jr., Esquire
City Attorney
Boswell & Dunlap LLP
245 South Central Avenue
Bartow, FL 33830

To EMS AUTHORITY:
With a copy to:
(which shall not constitute notice)
Shawn Smith
Fire Chief
1295 Brice Blvd
Bartow, FL, 33830

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, EMS AUTHORITY and _____ FIRST RESPONDER AGENCY have executed this Memorandum of Understanding effective as of the Effective Date.

ATTEST:

Deputy Clerk
Date:_____

POLK COUNTY, Florida, a political subdivision of the State of Florida

Bill Beasley, County Manager
(Date):_____

Approved as to form and legality:

County Attorney's Office (Date)

Paul Banerjee, D. O.
Medical Director, Polk County EMS
Date:_____

Shawn Smith,
Fire Chief of PCFR
(Date):_____

Drew Neubrand
Fire Chief
Winter Haven Fire Department
Date:_____

T. Michael Stavres
City Manager
City of Winter Haven
Date:_____

Approved as to form and legality:

Frederick J. Murphy, Jr., Esquire
City Attorney

DATE: September 12, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Julie Adams, Parks, Recreation & Culture Director
Natalie Wilson, Special Events & Initiatives Coordinator

SUBJECT: Cultural Arts Advisory Committee (CAAC) Seat Recommendations

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BACKGROUND

On September 25, 2017, the City Commission passed Resolution R-17-44, establishing the Winter Haven Cultural Arts Advisory Committee (CAAC) and appointing the initial seven members to staggered terms.

The CAAC is intended to serve solely as an advisory board to the City Commission, City staff and community in items such as:

- The development of cultural art programs and events;
- Communication, dialogue and the exchange of ideas, and advocacy for the expansion and enjoyment of the community's cultural art facilities;
- Potential projects and initiatives related to cultural arts;
- Serve as sounding board for public input pertaining to cultural art issues and opportunities.

The terms for Seat 3 and Seat 4 on the Cultural Arts Advisory Committee are set to expire on September 30, 2025. Prior to the expiration on their terms, current members Holly Scoggins and Zac Marius both notified staff of their intentions regarding future terms of service. Holly Scoggins (Seat 3) sent a letter of resignation and, Zac Marius (Seat 4) sent his signed reappointment letter to the City Clerk. Following the City's advertisement of these positions, two additional applications were received. The CAAC met on September 2, 2025 and reviewed the applications as a part of their regular meeting. After a thorough review of all applications, including the reappointment request, the Committee voted to recommend Seat 3 be filled by Tabitha Keith and to the reappointment Zac Marius with both terms expiring on September 30, 2028.

FINANCIAL IMPACT

There is no financial impact for this item.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Quality of Life
- **Goal:** 2.3 – Champion arts, beautification, and address blight to be an attractive and enriching community.

RECOMMENDATION

Staff recommends City Commission approve that Seat 3 be filled by Tabitha Keith and to the reappointment Zac Marius with both terms expiring on September 30, 2028.

ATTACHMENTS

- Reappointment Letter – Zac Marius
- Cultural Arts Committee Application – Tabitha Keith
- Cultural Arts Committee Application – Shawntise Brown

WINTER HAVEN
The Chain of Lakes City

BOARD/COMMITTEE APPOINTMENT INFORMATION

Board(s) or Committee(s) Desired:
1) Library Board
2) Grants and aids application review committee
3) CAAC

Name: Brown Shawntise
(Last) (First) (Middle)

Address: (Home) 233 24 TH CT SW Winter Haven, FL 33880
(Mailing) _____
(Office) _____

Phone: (Home/Cell) (863)845-8946 (Office) _____
(Email) _____ (Fax) _____

Employer: SFSC

Position: office Assistant Years/Months: 2 years

Please answer the following: **Check (✔) one:**

Are you a city of Winter Haven resident?	Yes ●	No ☐
Are you a registered voter?	Yes ●	No ☐
Do you own property in Winter Haven?	Yes ☐	No ●
Are you currently serving on a City Board/Committee?	Yes ●	No ☐
Have you ever served on a City Board/Committee?	Yes ●	No ☐
• If yes, when and which Board(s)/Committee(s)?	Juneteenth Committe MLK Committee	
Are you a City employee?	Yes ☐	No ●
How long have you lived in Winter Haven?	Years/Months: 17 years	

Please state your reason for wanting to serve on a City Board(s)/Committee(s):

I would like to join the library board because I am passionate about the power of knowledge. Reading being fundamental is something that I preach and live by. I am still an avid library card holder and enjoy visiting libraries around the county in my spare time, I know the importance that the library holds as a resource in the community and would enjoy nothing more than being a part of keeping that movement. I would like to join the grants and aid committee and the CAAC because I am an humanitarian at heart and would enjoy to be a part of the continuance and change in our community. Also, I can relate and identify with some of the issue and resolutions that may be presented in either group.

Describe your background and qualifications for the Board(s)/Committee(s) to which you seek appointment?

I am a Polk County native that has visited several libraries in the county. As well I have a passion for knowledge as I am a life long learner thus far. I have been a part of two committees in the past year. As well I am board member for a non profit in Polk Cunty. I have the heart to help and would like to expand in those areas as much possible.

Are there any potential conflicts, which would make it difficult for you to render objective judgment on questions, which come before the Board(s)/Committee(s) to which you seek appointment?:

N/A

REFERENCES:

Name	Address	Phone
Felicia Dozier	Avon Park	863 214 5150
Andy Polk	Avon Park	863 528 2355
Lisa D.	Avon Park	863 453 6661

Florida Statute 166.0442 permits the City of Winter Haven to apply a conditioned security-criminal background investigation and fingerprint requirement to all new and incumbent City appointees provided an ordinance and not mere policy is in place. Florida Statute 435.04 sets forth the means by which legally allowed level 2 background security checks and employment screenings with fingerprinting may be conducted.

1). Signature required if NOT submitting electronically: × _____ ***Date*** 01/03/2025

PLEASE EMAIL, MAIL, FAX, or DROP OFF THE COMPLETED APPLICATION

TO: Vanessa Castillo, MMC, City Clerk
The City of Winter Haven
P.O. Box 2277, Winter Haven, FL 33883-2277 ♦ 451 Third St., NW, Winter Haven, FL 33881
Office: 863.291.5627 ♦ Fax: 863.298-5293
vcastillo@mywinterhaven.com

City of Winter Haven
City Clerk

Mr. Zac Marius

SENT VIA EMAIL
zacmarius96@gmail.com

AUGUST 8, 2025

Dear Mr. Marius,

Thank you for having served on the City of Winter Haven's Cultural Arts Advisory Committee. Your term expires on September 30, 2025. Please let us know if you would like to continue serving on this Committee (3-year term) by completing the following:

1. **Check (✓) one:** ☒ I wish to be reappointed ☐ I do not wish to be reappointed
2. **Submit a new *Board/Committee Appointment Information* application** (if applicable – ex: any information has changed and/or is being added)
3. **Select one of the following:**
    a. If **not** submitting via email, print this letter, sign & date (required):

    ×_____ Date: _____

    b. If submitting via email with no signature, check **(✓)** here: ✔
4. **Return this letter (**and ***Board/Committee Appointment Information*** **application** if applicable**) in any of the following ways:**
    a. Email: vcastillo@mywinterhaven.com and lharris@mywinterhaven.com
    b. Drop off: City Hall, 451 Third Street NW, Winter Haven, FL 33881
    c. Mail: City Clerk's Office, 451 Third Street NW, Winter Haven, FL 33881

Please contact me if you have any questions.

Sincerely,

Vanessa Castillo, MMC
CITY CLERK

P 863.291.5627
C 863.287.7521
vcastillo@mywinterhaven.com

WINTER HAVEN
The Chain of Lakes City

BOARD/COMMITTEE APPOINTMENT INFORMATION

Board(s) or Committee(s) Desired: 1) CULTURAL ARTS ADVISORY COMMITTEE (CAAC)

2) _____

3) _____

Name: Keith Tabitha
(Last) (First) (Middle)

Address: (Home) 3321 Queens Cove Loop Winter Haven, FL 33880

(Mailing) 3321 Queens Cove Loop Winter Haven, FL 33880

(Office) 1951 8th St NW, Suite 100 Winter Haven, FL 33881

Phone: (Home/Cell) 863-356-2145 (Office) 863-291-6270

(Email) tabitha@heart4wh.org (Fax) _____

Employer: Heart for Winter Haven

Position: Director of Programs Years/Months: 5 years

Please answer the following: **Check (✔) one:**

Are you a city of Winter Haven resident?	Yes ●	No ☐
Are you a registered voter?	Yes ●	No ☐
Do you own property in Winter Haven?	Yes ●	No ☐
Are you currently serving on a City Board/Committee?	Yes ●	No ☐
Have you ever served on a City Board/Committee?	Yes ●	No ☐
• If yes, when and which Board(s)/Committee(s)?	AHAC	
Are you a City employee?	Yes ☐	No ●
How long have you lived in Winter Haven?	Years/Months: 25 Years	

Please state your reason for wanting to serve on a City Board(s)/Committee(s):

As an artist myself, I have experienced firsthand how arts and cultural expression can serve as powerful modalities for healing, connection, and community building. Creative expression transcends barriers, offering a space where people from all walks of life can find voice, meaning, and belonging. I am deeply concerned with ensuring that these opportunities are accessible to everyone in Winter Haven, regardless of background or resources. Serving on the Cultural Arts Advisory Committee would allow me to advocate for inclusive and equitable access to arts experiences that foster personal restoration, strengthen relationships, and contribute to the flourishing of our entire community.

Describe your background and qualifications for the Board(s)/Committee(s) to which you seek appointment?

I serve as Director of Programs at Heart for Winter Haven, leading community initiatives that integrate education, well-being, and creative expression to address poverty and foster connection. As an artist, I understand the power of cultural expression to heal, unite, and inspire. My experience includes building cross-sector partnerships, facilitating workshops, coordinating public events, and advocating for accessible arts opportunities. I bring skills in strategic planning, community engagement, and program development, along with a deep commitment to ensuring the arts remain an inclusive and unifying force in Winter Haven.

Are there any potential conflicts, which would make it difficult for you to render objective judgment on questions, which come before the Board(s)/Committee(s) to which you seek appointment?:

I have no conflicts that would impair my ability to render objective judgment as a member of the Cultural Arts Advisory Committee and will recuse myself from any matter where a potential conflict could arise.

REFERENCES:

Name	Address	Phone
Brad Beatty	137 Lake Otis Rd	830-591-7735
Janet Turley	706 Adams Ave	863-224-0237
Darian Henne	2109 9th St SE	407-415-8440
Jonathan Winfree	56 Lake Link Cir SE	863-605-2363

Florida Statute 166.0442 permits the City of Winter Haven to apply a conditioned security-criminal background investigation and fingerprint requirement to all new and incumbent City appointees provided an ordinance and not mere policy is in place. Florida Statute 435.04 sets forth the means by which legally allowed level 2 background security checks and employment screenings with fingerprinting may be conducted.

1). Signature required if NOT submitting electronically: × _____ ***Date*** 08/12/2025

PLEASE EMAIL, MAIL, FAX, or DROP OFF THE COMPLETED APPLICATION
TO: Vanessa Castillo, MMC, City Clerk
The City of Winter Haven
P.O. Box 2277, Winter Haven, FL 33883-2277 ♦ 451 Third St., NW, Winter Haven, FL 33881

DATE: August 19, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Julie Adams, Parks Recreation and Culture Director
Scott Eilers, Parks Recreation and Culture Assistant Director

SUBJECT: Neighborhood Service Center Lease Agreement

BACKGROUND

In 1981, the Neighborhood Service Center, Inc. (NSC) leased the Neighborhood Services Center building located at 608 Avenue S NE, Winter Haven, Florida 33881 (Property) from the City. Since that time, there have been three (3) extensions, with the most recent set to expire on October 25, 2025.

The mission of the Neighborhood Services Center is to improve access to resources, strengthen community engagement, promote education and skill development, and enhance the overall health and well-being of the Winter Haven community through outreach and assistance.

This Lease shall entitle NSC to utilize the Property for community outreach. The term of this Lease shall commence on or about October 25, 2025, and continue through October 24, 2026. The Agreement shall automatically renew for successive one (1) year periods, provided NSC remains in compliance with all terms and conditions herein, and such renewal is consistent with the City's current or planned use of the Property. Either the City or NSC may elect not to renew by providing written notice to the other party at least sixty (60) days prior to the expiration of the initial term or any renewal term.

NSC shall provide the required insurance coverage as set forth in this Agreement and shall be responsible for paying all utilities associated with its use of the Property. NSC shall pay an annual fee of One Dollar ($1.00).

FINANCIAL IMPACT

The NSC shall pay the City an annual fee of One Dollar ($1.00)

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Quality of Life
- **Goal:** 2.2 – Support partnerships to meet the needs of all members of the community and help those most in need find the proper pathways for support.
- **Strategy:** 2.2.2 – Identify a robust set of resources and partnerships to bring awareness to comprehensive wrap around services available to citizens.

RECOMMENDATION

Staff recommends the City Commission approve the Lease Agreement with the Neighborhood Service Center and authorize the City Manager and other City Officials to execute same and further authorize the City Manager or his designee to take all necessary actions required of the City under the Agreement.

ATTACHMENT

- Lease Agreement

LEASE AGREEMENT

This Lease Agreement (hereinafter “Agreement”), made this _____ day of _____, 2025, between the CITY OF WINTER HAVEN, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, (hereinafter "City") and NEIGHBORHOOD SERVICE CENTER, INC., a Florida not-for-profit corporation (hereinafter "NSC").

WITNESSETH:

WHEREAS, the City is the owner of certain real property and improvements thereon located at 608 Avenue S NE, Winter Haven, Florida 33881 (hereafter “Property”) as more particularly described and depicted on Exhibits “A” and “B” attached hereto and incorporated herein by reference; and

WHEREAS, NSC will continue to use the premises for a multi-purpose service center which shall include, but not be limited to, the following: programs for the elderly, nutritional feeding programs, recreational programs, informational and referral programs, transportation, and educational programs to the public; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, the parties hereby agree as follows:

1. Term. The initial term of this Agreement shall be for a period of one (1) year commencing on the 26th day of October, 2025 and continuing through the 26th day October, 2026. (The "Termination Date," unless earlier terminated under the provisions of this Agreement.) Thereafter this Agreement shall automatically renew for successive one (1) year periods, provided NSC is in compliance with all terms and conditions hereof and such renewal is consistent with the City's use, or planned use of the Property. Either the City or NSC shall notify the other in writing at least sixty (60) days prior to the end of the initial term or a renewal term if either party desires to not renew for an additional one (1) year term.

2. Leased Premises. The City hereby leases to NSC, and NSC hereby leases from the City, the certain Property located at 605 Ave S N.E. Winter Haven, Florida. The Property is specifically identified by legal description in Exhibit "A" attached hereto and made a part hereof, and by site sketch at Exhibit "B" attached hereto and made a part hereof.

3. Scope of Use. NSC shall be entitled to utilize the Property for the provision of certain services to the public, aimed at improving access to resources, strengthening community engagement, promoting education and skill development, and the overall health and well-being of the Winter Haven community through outreach and assistance as well as allowing meetings of the NSC in accordance with its mission, vision, and goals as a Florida not-for-profit corporation and its 501(c) (3) status under the IRS Code. The uses as set forth above shall be the sole uses permitted under this Agreement, and NSC shall utilize the Property for no other purposes. The parties acknowledge and agree that the services and activities of NSC are in the nature of quasi-governmental services and functions which NSC is rendering to the community.

4. Rent. In consideration of the rights and privileges granted by this Agreement, NSC agrees to pay to the City rent in the amount of One Dollar ($1.00) per year for the initial term of this Agreement and each renewal term, payable in advance.

5. Maintenance and Repair. NSC agrees to keep in good condition and a good state of repair, at all times, all leased grounds and structures, including all interior and exterior maintenance. NSC is responsible for all maintenance and repair not specifically stated herein as the City's responsibility. For purposes of this Agreement, interior and exterior maintenance are defined as follows:

"Interior Maintenance" shall mean the maintenance and keeping in good repair of the interior walls and ceilings, painting, repairs or alterations of plumbing, doors, windows and glass, electrical fixtures, air conditioning, water fixtures, locking devices, and all other fixtures; janitorial services such as sweeping, dusting, mopping, and waxing floors, re-lamping, interior and exterior washing of windows; the arrangement for sanitary removal of trash from the Property; and replacement of expendable installed equipment, such as but not limited to light bulbs.

"Exterior Maintenance" shall mean the maintenance and keeping in good repair of all doors, painting, trimming of the grounds of the Property, and keeping the grounds in a neat and orderly condition to include the sanitary removal of trash and preservation of vegetation as installed.

Building Improvements: NSC may not make any improvements without first obtaining the City's written consent and permission for same. Any such authorized improvements and/or alterations of every kind installed by NSC shall become and remain the property of the City provided, however, City, at its options, may require NSC to remove them. In the event that NSC shall fail to remove the fixtures and improvements after receipt of notice from City to so remove, City may remove them and dispose of them as it sees fit, and NSC agrees to sell, assign, transfer and set over to the City all of NSC's right, title and interest in the fixtures, improvements and any personal property so removed, for the sum of One Dollar ($1.00). NSC further agrees that should the City remove the fixtures and improvements as above provided, that NSC will pay City upon demand the cost of that removal, plus the cost of transportation and disposition of such removed items.

City's Responsibilities: The City agrees to perform structural maintenance on the premises of the Property. For the purpose of this Agreement, structural maintenance is defined as follows:

"Structural Maintenance" shall mean the keeping in good repair of the structural members, and the repair of casualty damage to exterior walls and roof.

All repairs, maintenance, improvements, or renovations shall be accomplished in accordance with the City of Winter Haven Building/Fire Codes. NSC hereby acknowledges that it has inspected the Property and accepts the buildings and surrounding grounds "as is."

6. Insurance. NSC shall, at its own expense, procure and maintain continuously in effect at all times throughout the term of this Agreement insurance that shall cover it for those sources of liability which would be covered by the latest edition of

the standard General Liability coverage form (ISO form CG 00 01) without restrictive endorsements and with the following minimum limits:

General Aggregate	$500,000
Products/Completed Operations Aggregate	$500,000
Personal & Advertising Injury	$500,000
Owned and Non Owned Automobiles	$500,000
Each Occurrence	$500,000

The insurance must be provided by an insurance company licensed in the State of Florida and acceptable to the City. The City shall be named as an additional insured under the NSC policy, and it shall be stipulate that the City shall be provided with a thirty (30) day notice in the event of cancellation, non-renewal or adverse change to the policy.

The required insurance shall be evidenced by a certificate of insurance which must be submitted to and approved by the City prior to this Agreement being effective and/or in force. Failure to comply with this requirement shall subject this Agreement to immediate termination.

The City shall be responsible for maintaining insurance on the Property. The City shall not be responsible for procuring insurance insuring the contents located inside the Property which shall be sole responsibility of NSC. Regardless of whether NSC purchases such property insurance, or not, NSC hereby expressly waives and releases any cause of action or right of recovery which NSC may have hereafter against the City for any loss arising out of loss or damage to NSC property on, about, or a part of, the Property, whether covered by insurance or not.

7. Indemnification. NSC Shall hold harmless, indemnify and defend the City, its elected and appointed officials, officers and employees, representatives and/or agents against any claim, action, loss, damage, injury, liability, tax, cost or expense of whatever kind or nature (including but not by way of limitation, attorney's fees and court costs) arising out of or incidental to or resulting from the NSC's use of the Property leased, whether or not due or caused by the negligence of the City, its officers, or employees, representatives and/or agents excluding only the sole negligence of the City, its officials, officers or employees, representatives and/or agents. Nothing herein is intended to act as a waiver of the City's sovereign immunity and/or the City's limits of liability as set forth in Section 768.28 of the Florida Statutes (2024) regardless of whether any such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

8. Compliance with Laws. NSC shall comply with any applicable federal, state, or local laws, and regulations, as well as policies of the City, with respect to its use of the leased Property. Further, the NSC for itself, its employees, agents, representatives, and permitted successors in interest, as part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said Property.

9. Utilities. The NSC shall pay for all electric, water, garbage disposal, telephone, and internet service charges associated with the leased Property.

10. Taxes. NSC shall be responsible for all taxes that may be assessed and/or due arising out of its use of the subject Property. Provided further that should any excise, use and/or similar tax or assessment be assessed and/or due, NSC shall be responsible for the payment of same as well as any attorney's fees and costs the City may incur in any matters associated therewith.

11. **RADON GAS. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM THE COUNTY HEALTH DEPARTMENT**.

12. NSC As Independent Contractor. In conducting its business hereunder, NSC acts as an independent contractor and not as an agent of the City. The selection, retention, assignment, direction and payment of NSC's employee's shall be the sole responsibility of NSC, and the City shall not attempt to exercise any control over the daily performance of duties by NSC's employees.

13. Assignment. This Agreement, or any part thereof, may not be assigned, transferred or subleased by NSC without prior written consent of the City which may be denied, conditioned and/or delayed.

14. Termination. This Agreement may be terminated by either party, for cause. For purposes of this Agreement, cause shall mean any material breach of the Agreement which has not been cured upon reasonable notice to do so which for purposes of this Agreement shall mean thirty (30) days. Failure of either party to cure a material breach after notice within thirty (30) days, shall subject the Agreement to an immediate termination. The City may also terminate this Agreement immediately without providing an opportunity to cure, due to health, safety and welfare reasons as the City may determine in its sole discretion. Provided further, either party may terminate this Agreement without cause by giving at least sixty (60) days notice in writing of its intention to terminate. Upon such a termination NSC shall vacate the Property leaving same in broom swept condition subject to ordinary and reasonable wear and tear.

15. Severability. If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

16. Notices. Any notice required by this Agreement shall be in writing and shall be either delivered in person, sent by overnight courier such as United Parcel Service or Federal Express, or mailed by United States Mail, certified with return receipt requested and all postage charges prepaid. Except where receipt is specifically required in this Agreement, any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed

to be effective three (3) calendar days after the date of postmark; notices delivered in person shall be effective upon delivery; and notices sent by overnight courier shall be effective as of the next business day after being placed into the hands of the courier service, properly addressed; and any time period shall begin running as of that date, whether or not the notice is actually received. Notices shall be given in the following manner, or in such other manner as may be directed by either the City and/or NSC, in writing from time to time, to the following persons and addresses:

If to the City: City of Winter Haven
Attn: T. Michael Stavres, City Manager
451 Third Street, N.W. (33881)
Post Office Box 2277
Winter Haven, Florida 33883-2277

With a copy to (which shall not constitute notice):
Frederick J. Murphy, Jr., City Attorney
Boswell & Dunlap LLP
245 South Central Avenue (33830)
Post Office Drawer 30
Bartow, Florida 33831-0030

If to the NSC: Neighborhood Service Center, Inc.
Attn: Benjamin R. Jones, President
2410 N. Swan Drive, N.E.
Winter Haven, Florida 33881

Each party shall be responsible for notifying the other party of any change in their address.

17. Headings. The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provision of this Agreement.

18. Governing Law. This Agreement is to be construed in accordance with the laws of the State of Florida. Venue for any legal actions arising under this agreement shall be in the State Courts in and for Polk County, Florida.

19. Attorney's Fees. In the event of any litigation between the parties hereto, the prevailing party shall recover all costs and reasonable attorney's fees incurred in connection therewith including but not limited to attorney's fees incurred in any appellate, bankruptcy, and/or administrative proceedings.

20. Entire Agreement. This Agreement constitutes the entire understanding between the parties, and as of its effective date supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing signed by both parties and approved by the City's governing body.

21. Public Records. To the extent that this Agreement is construed to be a contract

for services with a public agency and that it is acting on behalf of City as contemplated in Section 119.0701(1) of the Florida Statutes, then NSC agrees to:

1. Keep and maintain public records required by the City to perform the service contemplated in this Agreement.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if NSC does not transfer the records to the City.

4. Upon completion of the Agreement, transfer, at no cost, to the City all Customer Data in possession of NSC or keep and maintain Customer Data required by the City to perform the service. If NSC transfers all Customer Data to the City upon completion of the Agreement, NSC shall destroy any duplicate Customer Data that are exempt or confidential and exempt from Customer Data disclosure requirements. If NSC keeps and maintains Customer Data upon completion of the Agreement, NSC shall meet all applicable requirements for retaining Customer Data. All Customer Data stored electronically must be provided to the City in accordance with Section A.4 of the Agreement and upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

IF NSC HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO NSC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET, N.W., WINTER HAVEN, FLORIDA 33881.

If NSC does not comply with a public records request, City shall enforce the Agreement which may include immediate termination of this Agreement.

[*The balance of this page intentionally left blank*.]

IN WITNESS the parties have caused this Agreement to be executed on the date first written above.

CITY OF WINTER HAVEN, FLORIDA

By: _____
T. Michael Stavres, City Manager

ATTEST:

_____
Vanessa Castillo, MMC, City Clerk

Approved as to form:

_____
Frederick J. Murphy, Jr., City Attorney

NEIGHBORHOOD SERVICE CENTER, INC.

By: _____
Benjamin R. Jones, President

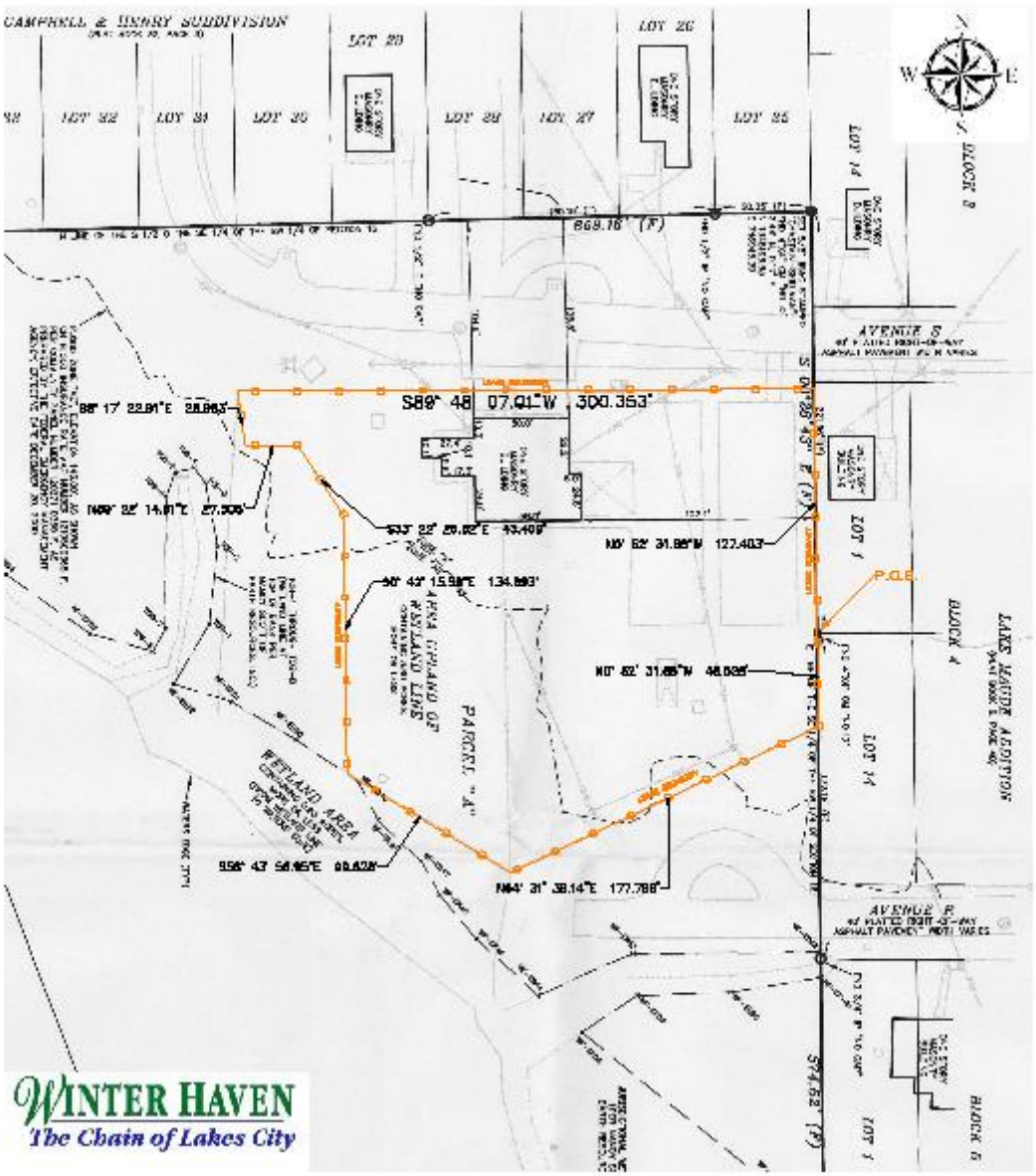
EXHIBIT "A"

(Legal Description)

Beginning at the Northwest corner of Lot 14 of Lake Maude Addition recorded as recorded in Plat Book 6, Page 40 of the Public Records of Polk County Florida, said Point of Beginning being occupied by a 4x4 concrete monument and a 4' chain-link fence, thence along said chain-link fence the following nine courses; N0°52'32"W a distance of 127.40 feet, S89°48'07"W a distance of 300.35 feet, S8°17'23"E a distance of 28.98 feet, N89°22'15"E a distance of 27.51 feet, S33°22'27"E a distance of 43.41 feet, S0°42'16"E a distance of 134.89 feet, S58°43'57"E a distance of 99.83 feet, N64°31'39"E a distance of 177.77 feet, N0°52'32W a distance of 48.53 to the Point of Beginning.

EXHIBIT “B”

(Site Sketch)



DATE: September 12, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager
Charlie Bird, Assistant City Manager – Public Safety

FROM: Vance Monroe, Chief of Police
Greg Goreck, Deputy Chief of Police
Shawn Dykes, Human Resources Director

SUBJECT: Police Benevolent Association, Inc. and City of Winter Haven Collective Bargaining Agreement – Addendum A

BACKGROUND

In accordance with Certificate Number 1950 issued by the Florida Public Employees Relations Commission (PERC) on December 21, 2018, the Police Benevolent Association, Inc. (PBA) became the sole exclusive collective bargaining agent for probationary and regular fulltime employees classified as Police Officer and Police Sergeant.

In October 2024, the City and PBA enacted a Collective Bargaining Agreement (CBA) that shall remain in full force and effect until September 30, 2027. This same Agreement provides for a reopening prior to October 2025 for the purpose of negotiating wages and up to two (2) articles.

The PBA team represented by Chief Negotiator George Corwine and the City team represented by Labor Attorney Greg Hearing convened negotiations May 29, 2025. On August 13th the City and PBA bargaining teams tentatively agreed upon the following CBA changes:

Article 35, Employee Compensation and Wages

- The minimum starting hourly rate of pay of a Police Officer and Sergeant will be adjusted five percent (5%).
- All incumbent members classified as a Police Officer and / or Sergeant shall receive a six percent (6%) pay adjustment to their hourly rate of pay.

A member ratification vote to affirm approval of the tentatively agreed upon CBA changes occurred August 26 and 27, 2025. It has been reported that among the forty-nine (49) members that voted, forty-two (42) members voted in favor of the CBA changes described above and as outlined in the attached Memorandum of Agreement (Addendum A), and seven (7) voted not in favor of the changes.

FINANCIAL IMPACT

The economic contract provisions are funded in the FY2025-26 budget.

STRATEGIC PLAN ALIGNMENT

- This is a routine action associated with normal operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it is aligned with the Responsible Government Strategic Pillar

RECOMMENDATION

Staff recommends the City Commission approve the Memorandum of Agreement (MOA) and authorize the City Manager to execute the MOA, which will become a part of the 2024 – 2027 CBA signed by the City and PBA on August 26, 2024.

ATTACHMENT

- 2025 Memorandum of Understanding
- Exhibit A
- WHPD CBA 2024-2027

MEMORANDUM OF AGREEMENT

BETWEEN

THE CITY OF WINTER HAVEN

AND THE

FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

THIS MEMORANDUM OF AGREEMENT is made and entered into on this _____ day of _____, 2025, by and between the Florida Police Benevolent Association, Inc., hereinafter called the "Association" and the City of Winter Haven, hereinafter called "City."

WHEREAS, there are opportunities in the current City of Winter Haven Collective Bargaining Agreement effective October 1, 2024, and terminating September 30, 2027; to reopen Article 35, Wages, and;

WHEREAS, the parties wish to amend Article 35, Wages, which is permissible in the Collective Bargaining Agreement which become effective on October 1, 2025, and;

WHEREAS, such an agreement is contemplated and authorized by Article 32;

NOW, THEREFORE, the parties agree as follows:

Effective upon ratification by the Union and the City, Article 35, Wages, shall be adjusted as outlined in the Amended Article 35, attached.

RECOMMENDED FOR THE CITY

_____ _____

T. Michael Stavres, City Manager Date

APPROVED FOR THE FLORIDA POLICE BENEVOLENT ASSOCIATION, INC.

_____ 9/12/25

Nick Marolda Date
President
West Central Florida PBA

EXHIBIT A

ARTICLE 35 – (As Amended Effective October 1, 2025)
EMPLOYEE COMPENSATION AND WAGES

Compensation for members of the bargaining unit will be administered in accordance with City Policy and WHPD General Order Number 22.1 (Compensation, Benefits and conditions of work). The Association agrees to support the City's goal of paying all overtime in lieu of granting compensatory leave, unless the budget precludes payment of overtime. Any other time or leave taken will not be considered hours worked for the purposes of overtime computation.

The Performance Compensation Step Plan (Plan) was established October 1, 2021, and shall remain in effect throughout the duration of this Agreement. The Plan provides all City employees an opportunity to achieve a pay adjustment to the next step within the pay grade if the employee receives a satisfactory performance evaluation or better. The adjustment would occur on the employee's anniversary date. Should an employee not achieve a satisfactory performance rating or better, the employee will be placed on a Performance Improvement Plan (PIP) and will not be eligible for a pay adjustment to the next step within the pay grade until their next anniversary date, assuming the employee completes the PIP requirements.

When an employee receives a PIP, the employee will be placed on a six (6) month probationary period and advised of their performance deficiencies and be provided a plan of action to aid in achieving a satisfactory, or better, performance evaluation. During the six (6) month probationary period, the employee will be re-evaluated, and if at the end of the six (6) month probationary period the employee has received a satisfactory evaluation, the employee will be released from probation but will not receive a pay adjustment. If the employee has not fulfilled the PIP and does not receive a satisfactory evaluation at the end of the six-month probationary period, the employee may be dismissed.

The following demonstrates what the Plan's pay adjustment will be for the next three years:

Fiscal Year 24/25	2.5% Employee Pay Adjustment
Fiscal Year 25/26	2.5% Employee Pay Adjustment

Fiscal Year 26/27 2.5% Employee Pay Adjustment

On each five (5) year increment anniversary, the employee will have a performance-based opportunity to receive a 3.5% pay adjustment for that year only then return to the normal performance-based step schedule.

Section 1 – New Officers

Effective October 1, 2024, the starting salary for the position of a Police Officer shall increase by $3,016 annually. The hourly increase shall reflect the number of hours scheduled to work and the number of hours of the twelve (12) observed holiday benefit (Article 14). (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total of 2,328 hours. $3,016 / 2,328 = $1.30 / hour increase, for a new hourly rate of $26.08.)

Effective October 1, 2024, the starting salary for a newly promoted Police Sergeant shall increase by $3,224 annually. The hourly increase shall reflect the number of hours scheduled to work and the number of hours of the twelve (12) observed holiday benefit (Article 14). (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total 2,328 hours, $3,224 / 2,328 = $1.39 / hour increase, for a new hourly rate of $32.75 / hour.) (Rounding up for the benefit of the employee).

Effective October 1, 2025, the base pay for starting Police Officer shall be adjusted five percent (5%), to $27.38 / hour.

Effective October 1, 2025, the base pay for starting Sergeant shall be adjusted five percent (5%), to $34.39 / hour.

Section 2 – Incumbent Staff

Effective October 1, 2024, all full-time incumbent Sergeant and Officers shall receive an annual wage increase in the amount of $3,224.

Sergeants and Officers assigned to Patrol who work a bi-weekly schedule of eighty-four (84) hours per pay period, shall receive an hourly increase of $1.39, which includes the twelve (12) observed

holiday hour benefits of one hundred forty-four (144) hours annually. (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total of 2,328 hours. $3,224 / 2,328 = $1.39 / hour increase.)

Sergeants and Officers assigned to Detectives and Motors who work a bi-weekly schedule of eighty-two and a half (82.5) hours per pay period, shall receive an hourly increase of $1.50 which includes the twelve (12) observed holiday hour benefits of ninety-nine (99) hours annually. (Detectives and Motors are scheduled to work 2,145 annual hours, which includes the 99 annual observed holiday hours, for a total of 2,145 hours. $3,224 / 2,145 = $1.50 / hour increase.)

Effective October 1, 2025, all bargaining unit members shall receive a six percent (6%) pay adjustment to their hourly rate of pay.

Section 3 – Additional Compensation

1. Bargaining Unit members who are assigned as Field Training Officers/Sergeants shall be compensated at the rate of $25 for each Daily Observation Report (DOR) completed. This shall be a flat rate and will factor into a member's overtime.

2. Shift Differential is established for bargaining unit members. Members assigned to a patrol night shift schedule shall receive $80.00 per fourteen (14) day pay period. Shift differential shall be a flat rate and will factor into a member's overtime. Members will earn shift differential while on approved leave.

3. Members assigned to the canine will be afforded a pay differential as follows:

    1. October 1, 2024, to September 30, 2025, $136.50 paid bi-weekly
    2. October 1, 2025, to September 30, 2026, $147.00 paid bi-weekly
    3. October 1, 2026, to September 30, 2027, $157.50 paid bi-weekly.

These rates shall be a flat rate and will factor into a member's overtime. The City shall provide bargaining unit members assigned to canine with all required equipment according to the Department General Order 41.3.

EXHIBIT A

ARTICLE 35 – (As Amended Effective October 1, 2025)
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Collective Bargaining Agreement

Between

West Central Florida Police Benevolent Association

A Chapter of the
Florida Police Benevolent Association

and the

City of Winter Haven

A Municipality of the State of Florida

October 1, 2024 to September 30, 2027
Police Officers and Police Sergeants

Includes 2025-2026 Re-Openers

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PREAMBLE

THIS AGREEMENT is entered into as of this 1st day of October 2024, between the CITY OF WINTER HAVEN, FLORIDA, hereinafter referred to as the "City" and FLORIDA POLICE BENEVOLENT ASSOCIATION, INC., hereinafter referred to as the "PBA." It is the intent and purpose of this Agreement to promote harmonious relations between the City and its represented employees and to assure sound and mutually beneficial working and economic relationships between the parties. It is the further intention of the parties to provide an orderly and peaceful means of resolving any misunderstandings or differences which may arise and to set forth herein basic and full agreements between the parties concerning rates of pay, wages, hours of work, and other terms and conditions of employment. It is understood that the City is engaged in furnishing essential public services which affect the health, safety, and welfare of the public and both parties hereto recognize the need for continuous service to the public.

ARTICLE 1

Office of Director of Public Safety

For the purpose of this Agreement any and all references to Deputy Police Chief and/or Director of Public Safety, shall be deemed and construed the same as the Police Chief.

ARTICLE 2

RECOGNITION

In accordance with Certification Number 1950 issued by the Florida Public Employees Relations Commission December 21, 2018, the City hereby recognizes the Florida Police Benevolent Association, Inc. (PBA) as the sole and exclusive bargaining agent for the purpose of collective bargaining with respect to wages, hours, and other conditions of employment for probationary and regular fulltime employees of the City of Winter Haven working within the following classifications:

- Police Officer
- Police Sergeant

All other employees of the City of Winter Haven are excluded from the PBA Bargaining Unit.

In the event the City decides to eliminate an existing Bargaining Unit job classification, it will notify the PBA thirty (30) days in advance of its decision. Upon request, the City will meet with the PBA to bargain the decision to eliminate a covered job classification. Failure of the parties to reach agreement will result in impasse, which shall be resolved in accordance with the impasse procedures provided by the Florida Public Employees Relations Act.

ARTICLE 3

REPRESENTATIVES OF PARTIES

The City agrees that during the term of this Agreement, it shall deal only with the authorized representatives of the PBA in matters requiring mutual consent or other official action called for by this Agreement. The PBA's authorized representatives for this purpose are PBA Officials, including the West Central Florida PBA President, or their designee, and Florida PBA Chief Negotiator, or their designee.

The PBA likewise agrees that during the term of this Agreement, the PBA will deal with representatives that the City designates within five (5) business days of the ratification of this Agreement.

For purposes of direct communication regarding the Grievance Procedure articulated herein, the City acknowledges that the PBA shall select two Grievance Representatives, and two Alternates, and shall furnish the names to the City. The PBA shall notify the City Human Resources Manager if there are any changes in Grievance Representatives and Alternates.

The Grievance Representatives and/or Alternates may investigate or otherwise handle Grievances during working time as long as there is no unreasonable interference with the operational needs of the City.

The Grievance Representatives and/or their Alternates may communicate with the City and its representatives. The City shall provide sufficient copies of applicable written communications to the Grievance Representatives and/or Alternates, who are responsible for providing the same to the PBA officials.

ARTICLE 4

ACCESS TO PREMISES

The City agrees that designated representatives of the Association shall have access to the premises of the City that are available to the public. If any area of the City's premises is restricted to the public, permission to enter such areas must be requested of the Public Safety Director, Deputy Police Chief or designee who shall have the discretion to assign an escort to accompany the representative(s) of the Association. Such permission will not be unreasonably denied. Such access shall be during the regular working hours of the employee(s) and shall be restricted to matters related to the application of this Agreement, proceedings governed by Sections 112.532, .533 .534 and .536, Florida Statutes, and proceedings governed by Chapter 86-342, Laws of Florida.

ARTICLE 5

DUES CHECK OFF

The City will deduct from regular biweekly payroll checks dues owed by the employee to the PBA provided that prior to said deduction being made the PBA has provided the City with a signed authorization form from each employee whose dues are to be deducted to confirm that such deduction is authorized. Deductions will be forwarded to the PBA within ten (10) business days of said deduction made.

Any authorization for dues deduction may be canceled by the employee upon thirty (30) calendar days' written notice to the City and the PBA.

The PBA agrees to indemnify, defend, and hold the City harmless from any and all claims, demands, suits, other forms of liability or expenses in connection with or that may arise out of, or by reason of, action taken by the City on account of payroll deduction of PBA dues.

Nothing contained herein shall require the City to deduct from a salary or be otherwise involved in the collection of any fine, penalty, fee, or special assessment.

If an employee's net earnings after deductions for federal withholding tax, social security, retirement, medical insurance, credit union and prior deductions are not sufficient to cover dues deductions, or at any time an employee is on unpaid leave status, the deductions will not be made. Rather, it is exclusively the PBA's responsibility to collect non-payroll deduction dues or any employee dues in arrears.

ARTICLE 6

BULLETIN BOARDS

The City agrees to provide space for one (1) bulletin board placed conspicuously in a work area in the Police Department, the location of which will be mutually agreeable. PBA, at its expense, may install one (1) bulletin board not to exceed twelve (12) square feet in each station. All costs in preparing and posting PBA notices will be borne by the PBA.

All materials to be posted on said bulletin board must be related to official PBA business and will be limited to meeting notices and announcements, PBA sponsored social events and activities, election notices, meeting minutes and similar informational announcements regarding PBA business.

No material, notices, or announcements will be posted which contain anything that may reasonably be deemed offensive, defamatory, or obscene, that reflects adversely upon the City, its independent contractors, employees, or any labor organization among its employees, or which has the potential to cause disruption or impair the operational efficiency with the unit or among employees.

Copies of any material posted must be initialed by the PBA elected representative and approved for posting in advance by the Public Safety Director and Deputy Police Chief. Any documents posted on the bulletin board which are not initialed will be removed by the Public Safety Director, or in his absence, the Deputy Police Chief. If a document is removed by the City, the PBA representative will be notified. The Public Safety Director's decision whether to approve a particular posting is at his/her sole discretion and is not subject to appeal.

ARTICLE 7

NON DISCRIMINATION

The City and PBA agree not to discriminate against any Bargaining Unit employee for their lawfully protected activity under the Public Employee Relations Act on behalf of the PBA; for their membership or non-membership in any Union; or because of age, race, color, national origin, religion, gender, disability, marital status, or Veteran status.

The City and PBA acknowledge that nothing in this article precludes or prevents an employee from exercising any and all of the employee's local, state and federal civil rights in any and all local, state, and federal administrative and judicial forums.

ARTICLE 8

PREVAILING RIGHTS

Nothing in this Agreement shall be construed as abridging, amending, or waiving any rights, benefits or perquisites presently covered by statutes, existing rules or regulations recognized as being legitimate and having general and uniform applicability, except as expressly superseded by the terms of this Agreement.

Said rights, benefits or perquisites which pertain to subjects of bargaining, which are negotiable under the provisions of Chapter 447, Florida Statutes, shall not be modified or terminated except by agreement of the parties.

ARTICLE 9

MANAGEMENT RIGHTS

Except as expressly limited by any provision of this Agreement, the City reserves and retains exclusively all of its normal and inherent rights with respect to the management of its operations, whether exercised or not, including, but not limited to, its rights to determine, and from time to time re-determine, the number, location and type of its various operations, functions and services; the methods, procedures and policies to be employed; to discontinue the conduct of any operation, function or service, in whole or in part; to transfer its operations, functions or services from or to, either in whole or in part, any of its departments or other divisions; to select and direct the working force in accordance with requirements determined by the City; to create, modify, or discontinue jobs; to establish and change working rules and regulations; to create new job classifications; to establish and change work schedules and assignments; to transfer, promote or demote employees; to lay-off, furlough, terminate or otherwise relieve employees from work for lack of work, lack of funds, or other legitimate reasons; to suspend, demote, discharge or otherwise discipline employees for just cause; and otherwise to take such measures as the City may determine to be necessary to the orderly and efficient operation of its various operations, functions and services.

In the event the City considers subcontracting any or all of the work covered by this Agreement, it shall provide the PBA a ninety (90) day notice of its intent and, upon request from the PBA, commence Bargaining over the effect thereof. However, after thirty (30) days have passed from the time bargaining commences, the City shall be free to issue a Request for Proposal although it shall still continue to bargain over the effect. If the parties fail to reach agreement on the impact of the subcontracting decision, the dispute shall be resolved through the statutory Impasse procedure provided for in the Florida Public Employees Relations Act.

ARTICLE 10

LABOR MANAGEMENT COMMITTEE

The City and the PBA will each appoint three (3) individuals to a Labor Management Committee which, upon the request of either party, will meet no more than three times per year, unless both the Association and the City mutually agree otherwise, at a mutually agreeable time and place, and during regular business hours.

The parties agree that these meetings should not be construed as, and do not constitute negotiations, but rather are for the purpose of informally discussing various issues arising out of the Bargaining Unit employees' employment with the City.

Accordingly, the provisions of Florida law relating to negotiations are not applicable to meetings of the Labor Management Committee.

ARTICLE 11

CITY POLICIES AND PROCEDURES

City policies and procedures, including the City of Winter Haven Personnel Policy and Procedures Manual and all Winter Haven Police Department General Orders in effect at the time this Agreement is ratified are hereby incorporated by reference into this Agreement.

Where there is a conflict between these policies and procedures and the express terms of this Agreement, this Agreement will prevail. Where this Agreement is silent, the City's policies and procedures will prevail. If the parties are unable to agree on whether the City's Personnel Policy and Procedures Manual and Winter Haven Police Department General Orders, or any provision therein, is in conflict with this Agreement, the party's inability to agree shall be subject to the Grievance/Arbitration Articles in this Agreement.

In the event a contemplated change is to be made, at least ten (10) calendar days prior the City shall provide written notice of such proposed change to the PBA designated representative. If the PBA does not reply within a period of no later than ten (10) calendar days thereafter, the contemplated change will be made. If within ten (10) calendar days the PBA so requests, the City will bargain over the impact and/or effect of such change(s) on Bargaining Unit employees. If the parties fail to reach agreement on the impact of such change(s) the dispute shall be resolved through the statutory Impasse procedure provided for in the Florida Public Employee Relations Act.

In the event a change in Police Department General Orders is ordered at the time of accreditation review and/or inspection, and provide said change is predominantly verbiage only and of no impact on employees, notice of the change will be provided to the PBA no later than ten (10) business days thereafter.

ARTICLE 12

PERSONNEL RECORDS

There shall be only one official personnel file for each unit member and the Human Resources Division shall retain each Employee's official personnel file and said retention shall be maintained in accordance with established public records laws. All employees will be able to view their personnel file during normal office hours (in the presence of an administrative staff member).

Employees are encouraged to periodically review their respective personnel files to ensure that information contained therein is accurate and current. Members may request that documents be added to their personnel files, include information pertinent to certifications, employment, and job performance, to include material items from third parties. The granting of said request shall be at the discretion of the Human Resources Division Manager. If the request to add documents is not granted, the employee will have the opportunity to meet with the Human Resources Division Manager and the Public Safety Director, or his or her designee, for a second review and consideration.

All members shall be notified of anyone requesting to view their records. The release of any information to employees or others will be in accordance with any related prevailing Florida Statutes.

The home address, telephone numbers, photographs, and social security numbers of active or former law enforcement personnel, as well as the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children and the names and locations of schools attended by the children of said active or former law enforcement personnel are exempt from disclosure under the Public Records Law, Chapter 119, Florida Statutes, and shall not be released except for a legitimate governmental purpose. In addition, the City agrees that in cases where public records requests are made for a member's e-mail, the City will redact any aforementioned personal information as well as preclude non-work related e-mails to be released to the public as provided for in Chapter 119, Florida Statutes.

ARTICLE 13

SENIORITY

Seniority date shall be the date an employee started work in the Winter Haven Police Department in a job covered by the Bargaining Unit.

New employees shall be considered probationary until after twelve (12) months of employment and until a favorable, approved performance evaluation has been received and an official change in classification from probationary to regular has been enacted by the City. At the end of the probationary period, new employees will be placed on the seniority list and their seniority will be retroactive to the date of hire.

An employee shall lose all accumulated seniority if:

- The employee voluntarily quits;
- The employee is discharged and not reinstated under the Grievance/Arbitration Procedures;
- The employee has been continuously laid off for a period of twelve (12) months;
- The employee fails to return to work within ten (10) calendar days after a letter notifying the employee to return to work has been sent by the City by registered mail to the employee's last known address;

In the event an employee who has lost accumulated seniority is subsequently rehired by the City, the employee shall be considered a probationary employee for the purposes of this Agreement.

At the request of the PBA, and within ten (10) workdays thereof, the City shall prepare and present a seniority list that will include the employee name, date of hire, current job classification, and rate of pay. If the PBA believes the list is not correct, the PBA will have ten (10) work days after receiving the list to present to the City a written objection regarding the correctness of the list.

Seniority will be utilized during the Patrol shift bidding process.

ARTICLE 14

HOURS OF WORK, OVERTIME, AND PAYMENT MEANS

Hours of Work:

The established work cycle for law enforcement employees is fourteen (14) days, with the allowable work hour threshold for the purposes of determining overtime being eighty-six (86) hours, per the Fair Labor Standards Act (FLSA). There are twenty-six (26) fourteen (14) day work cycles in one year.

The daily time schedule for Police Officers and Sergeants assigned to Patrol is twelve (12) hours; this accounts for (12) compensable work hours a day and a paid lunch. Within a fourteen (14) day work cycle, the scheduled time equates to eighty-four (84) work hours.

The daily time schedule for Police Officers and Sergeants assigned to the Detective, and Motors units is nine (9) hours; this accounts for an eight and a quarter (8.25) hour day with a forty-five (45) minute unpaid lunch. Within a fourteen (14) day work cycle, the scheduled time equates to eighty-two and a half (82.5) work hours.

The daily time schedule for Officers and Sergeants assigned to the SRO unit is eight (8) hours with a one (1) hour paid lunch. Within a fourteen (14) day work cycle, the scheduled time equates to eighty (80) work hours.

Personnel assigned to the Drug Task Force (TFO) will work a fourteen (14) day work cycle, the equivalent of eighty (80) hours in a bi-weekly pay period.

In the event a change in the work cycle or daily time schedule is contemplated, at least thirty (30) days prior the City shall provide written notice of such proposed change to the PBA. If within ten (10) days of receiving the notice the PBA declines to respond to same or does not request to bargain over the impact and/or effect of the change, the contemplated change will be enacted and effective on a date of the City's choosing.

Overtime:

The FLSA requires that sworn law enforcement employees who work in excess of eighty-six (86) hours during a fourteen (14) day work cycle are to be paid the excess hours worked at the overtime rate, which shall be time and one-half the regular rate of pay.

Sworn law enforcement employees assigned to the TFO who work in excess of eighty (80) hours during a fourteen (14) day work cycle will be paid the excess hours at their overtime rate.

Police Officers and Sergeants who work in excess of eighty-six (86) hours in a fourteen (14) day work cycle will be paid the excess hours at their overtime rate.

Regardless of the total number of hours worked in a fourteen (14) day work cycle, members required to work on an actual holiday or City observed holiday shall be paid at the rate of time and one-half their hourly pay rate for hours worked. If a member is required to work both the City observed and actual holiday, the member shall be paid at the time and one-half hourly rate for hours worked on the actual holiday only. For work cycles in which a member works overtime, the extra half-time premium for work on an actual or observed holiday shall not be included when determining the member's regular rate.

For the purpose of computing overtime, holidays, annual leave, sick leave or other leave benefit, time will not be considered time actually worked on the job.

Overtime must be authorized and will only be directed when it is in the interest of the City and the most practical and economic way of meeting workloads or deadlines. Overtime must be approved in advance of it being worked and may only be approved by the Police Chief, Police Captain, and Police Lieutenant or designated Officer in Charge.

Payment Means:

Bargaining Unit employees will be compensated bi-weekly, every fourteen (14) days.

ARTICLE 15

EXTRA DUTY EMPLOYMENT

All extra duty employment shall be administered in accordance with WHPD General Order 22.3, Off Duty and Extra Duty Employment.

Members shall have full access and be allowed to sign up for extra duty details when the extra duty details are posted.

When members of any rank work an extra duty detail for a requesting third party, the member will be compensated the same rate the requesting third party is invoiced for this service which is:

Non-Supervisory Rates

1. The Standard Extra Duty rate will be forty dollars ($40) per hour with a three (3) hour minimum.

2. The Premium Extra Duty rate (Holiday Rate) will be fifty dollars ($50) per hour with a three (3) hour minimum.

3. The Urgent Extra Duty Rate (details that are scheduled with five (5) calendar days or less) will be sixty ($60) per hour with a three (3) hour minimum.

Supervisory Rates (applicable when the detail requires a supervisor due to the number of personnel working the detail).

1. The Standard Extra Duty rate will be forty-five dollars ($45) per hour with a three (3) hour minimum.

2. The Premium Extra Duty rate (Holiday Rate) will be fifty-five dollars ($55) per hour with a three (3) hour minimum.

3. The Urgent Extra Duty Rate (details that are scheduled with five (5) calendar days or less) will be sixty-five ($65) per hour with a three (3) hour minimum.

ARTICLE 16

COURT APPEARANCES AND OTHER COURT DUTIES

Court appearances and other court duties required of an employee as the result of a matter arising out of the employee's performance of duties and responsibilities for the City, which occur when the employee is off-duty (i.e. not during an employee's regular assigned shift at work) shall be compensated in the following manner:

1. Employees shall receive a minimum of two (2) hours pay inclusive of actual and reasonable travel time incurred as a result of the employee's attendance at court.

2. If an employee has more than one court appearance or related duty to attend to on the same day, any court time that falls within the same two (2) hours will not entitle the employee to any extra compensation. Should a court related appearance or related duty exceed two (2) hours, the employee will be paid for all time the employee is required to be present.

3. If an employee is on approved leave and is summoned to court, the employee will be compensated in the manner described herein, and leave hours will not be charged to or deducted from the employee's accrued leave account. The payment of accrued leave and court time for the same period of hours shall not be permitted.

4. If while off duty an employee receives a telephone call relating to a covered court time event, which is a minimum of fifteen (15) minutes or greater in duration, the employee shall be paid for the time spent on the telephone call. Telephone calls of less than fifteen (15) minutes are agreed to be de minimis and shall not be compensated. Claims of compensation for telephone calls must include sufficient information (i.e., date, time, duration and other party to call) so as to allow for verification.

5. Court time will be paid at the employee's regular hourly rate unless the employee meets

the overtime threshold within the meaning of the Fair Labor Standards Act. For the purposes of computing overtime, court time incurred when the employee is not on duty during an assigned shift will be considered regular hours worked.

ARTICLE 17

WORKING IN HIGHER CLASSIFICATION

Eligibility:

If management directs a Police Officer or Police Sergeant to work in a higher classification for a work period of twenty-eight (28) days or longer, the affected employee's hourly rate of pay shall be adjusted to the minimum base hourly rate of the higher classification or the employee's hourly rate of pay shall be increased five percent (5%), whichever is greater, and the adjusted hourly rate shall be retroactive to the first day of the assignment to the higher classification.

Return to Regular Rate:

A Police Officer or Police Sergeant being paid at a higher rate while temporarily performing the duties of a higher classification will be returned to their previous regular rate of pay when the period of temporary employment in the higher class ends.

Promotional Probationary Period and Time in Grade:

If a member serves as an "Acting Sergeant or Lieutenant" immediately contiguous to being promoted to the rank of Sergeant or Lieutenant, the time served in the acting capacity will be counted towards their promotional probationary period and their time in grade.

ARTICLE 18

CALL BACK AND SUBJECT TO CALL

Call Back:

An employee who completes their regular workday or shift and is called back from off City premises to work and/or assist in an emergency will receive a minimum credit of two (2) hours. The employee shall be considered on-duty for the full two hours and compensated for all hours worked in excess of that period.

Call back pay shall be paid at the employee's regular hourly rate unless the employee has actually worked hours in the work period to be eligible to be paid at the overtime rate. If the call out is cancelled prior to the employee's arrival at the scene, the employee shall receive two (2) hours paid at the regular hourly rate.

If an off-duty employee is called back to work on a City observed holiday, the minimum two (2) hours pay, and any time worked in excess of the two hours that day, will be paid at the overtime rate regardless if the member does not work the required number of regular hours in the work period.

Should an employee on approved leave be called back to work the employee will receive compensation as defined herein, for each day called back, and a comparable number of hours actually worked will not be charged to or deducted from the employee's accrued leave account. The payment of both leave pay and call back pay for the same hours will not be permitted.

Subject to Call:

Employees informed in advance by their supervisor that they will be subject to being called into work on a non-scheduled workday or City authorized holiday will be paid $75.00 for each applicable subject to call day.

The $75.00 subject to call pay on a non-scheduled workday will not be deemed a part of any employee's base rate of pay; however, such will be factored into any necessary or applicable overtime pay rate calculation.

Employees informed in advance by their supervisor that they will be subject to being called into work after-hours on a workday will be paid $35.00 for each applicable subject to call day.

The $35.00/$75.00 subject to call on a scheduled, non-scheduled workday or holiday will not be deemed part of any employee's base rate of pay; however, such will be factored into any necessary or applicable overtime pay rate calculation.

The $75.00 subject to call on a non-scheduled workday or holiday will not be deemed part of any employee's base rate of pay; however, such will be factored into any necessary or applicable overtime pay rate calculation.

In addition to the $75.00, employees subject to call on a non-scheduled workday who are actually called in to work shall receive Call Back time in accord with and as defined above.

ARTICLE 19
SAFETY AND WELLNESS

Personal - Workplace Safety:

The City and PBA agree to cooperate to the fullest extent concerning the health and safety of the employees and the services provided to the public.

Through the development and implementation of current and new standard operating procedures and safety rules, along with the provision of safety clothing and protective devices, the City shall make a reasonable effort to ensure the safety and health of each employee during the hours of employment.

Employees are required to observe and adhere to all standard operating procedures and safety rules promulgated for their protection. Employees are required at all times to use all appropriate safety clothing and protective devices made available by the City. Each employee shall also immediately report to their supervisor or manager in charge any unsafe practice or condition of which they are aware, regardless of whether a third party is involved.

An employee who neglects or fails to observe and adhere to all standard operating procedures and safety rules, and use City provided safety equipment, may be subject to discipline, if the employee's failure was purposeful and neglectful, up to and including discharge, and may incur a loss or reduction of workers' compensation benefits if injured.

Vehicle Safety:

The parties agree that all fleet vehicles will be maintained in accordance with applicable WHPD General Orders and in accordance with preventive maintenance standards and schedules established by the City's Fleet Maintenance Division.

Firearms Safety:

In order to promote safety in the use of firearms by bargaining unit employees, the Parties agree members of the bargaining unit will be given the opportunity to qualify in accordance with applicable WHPD General Orders.

Safety Committee:

The PBA will, upon request, be allowed one (1) Bargaining Unit member to serve on the City Safety Committee with the understanding that meetings will be held monthly during regular business hours. Moreover, provided work unit operations are not unduly hampered, or in the event the designated member is not on authorized leave, meeting attendance will be mandatory.

Wellness:

The City will continue to encourage the wellness and good physical conditioning of sworn law enforcement personnel.

A gym facility at WHPD headquarters will be provided. When call load allows, and with supervisor approval, members may work out in lieu of their meal break at the WHPD facility or a commercial fitness facility. The allowable work out period is forty-five (45) minutes inclusive of pre and post work-out changing times.

A member working out is subject to be called back into service at any given time and shall monitor the radio, or agency issued cell phone, during the workout period. Workout times should be chosen during non-peak call load times.

To further promote good physical conditioning and reward for same, Bargaining Unit members are afforded the opportunity each year to participate in a Physical Readiness Incentive Program administered in accordance with General Order 22.4. Participation in this Program is voluntary.

Random Drug Testing

Under the City's Drug-Free Workplace Policy, effective October 1, 2023, employees (Sworn Officers) within the bargaining unit who are considered to be in a safety sensitive position and

who perform safety sensitive functions shall be subject to random drug and alcohol testing as stated within the City's Personnel Policy and Procedures Manual, Section 8.17 Drug-Free Workplace and EAP.

At various times, the City shall randomly select bargaining unit members for unannounced drug testing. The selection shall be made by the use of a scientifically valid method, such as a computer-based random number generator that is matched with the employee's social security, payroll, driver's license, or other comparable identifying number. Each employee shall have an equal chance of being tested under the selection process used, and may be tested more than once, depending on the frequency that he is randomly selected.

1. The bargaining unit may designate a representative to view any part of the random selection process, and the City will provide upon request any additional information relating to the computer-generated selection programs. At no time during this review process will access be allowed to the actual names of employees being selected for a prospective testing period.

2. The employee shall have the right to have present during the testing a representative of their choice, but the Department will not be required to wait for such representative to arrive. In the event that the employee's initial representative is unable to serve, they may choose another representative, but in no event shall the Department be required to wait.

3. If the employee randomly selected is not available on the day of random testing being conducted, the Police Chief and Deputy Police Chief will maintain the confidentiality of the employee's name until the employee returns to a scheduled work shift during a two-week period, at which time the testing process shall proceed. Documentation of the reason for the determination of the testing date (i.e. missed workdays) shall be completed by the Chief and Human Resources. If an employee is selected for random testing, the City will attempt to have the testing conducted during their normal shift hours. If the facility conducting the testing is not open during the employee's working hours, the employee shall visit the facility before or after their work shift on the same shift of being notified. Actual time spent to conduct the random testing along with the time spent traveling to and from the facility, or a minimum of two (2) hours, whichever is greater, shall be considered as

hours worked and shall not be flexed by the City.

4. Employees have the option of reporting substance abuse problems directly to the Employee Assistance Program, absent involvement or knowledge by City staff. Under these conditions, it is the employee's responsibility through consultations with the Substance Abuse Professional, to take the appropriate measures (i.e., abstinence from usage, approved leave, request for leave without pay, etc.).

5. Any employee who refuses to comply with a legitimate order for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, substitutions, or any other means shall immediately be removed from duty, placed on leave without pay status, and shall be subject to discipline up to, and including, termination.

6. A positive drug test will be reported for any urine drug test which has been verified by the Medical Review Officer if the testing laboratory determines the specimen contains a drug (or metabolite) above the screening and confirmatory test threshold levels.

7. A negative drug test result will be reported for any urine drug test, which has been analyzed by the testing laboratory and found not to contain a drug (or metabolite) above the screening levels. A negative test result will also be reported for any urine drug test result which has been analyzed by the testing laboratory and found to contain a drug (or metabolite) above the screening and confirmatory test threshold levels, if the MRO subsequently determines the result is negative based on verification of prescription information or other acceptable verifiable explanations.

8. If an employee tests positive, the City shall inform the employee in writing of a positive test result, the consequences of the test result and any options available to them. Upon request of the employee, a copy of the test result will also be provided.

9. Within five working days after being notified of a positive confirmed test result, employee may submit written information to the City to contest the test result or explain why the result does not constitute a violation of the City's drug free workplace policy. If the challenge or explanation of the positive test result is unsatisfactory to the City, the employee will be provided written notice of the cause and reason for this determination.

10. Any employee who has been notified by the MRO of a confirmed positive drug test shall have one-hundred eighty (180) days in which to request a retest of the same specimen provided originally. If the employee makes a timely request, the MRO shall, in writing, direct the laboratory to provide the originally tendered specimen to another certified laboratory of the employee's choosing, for analysis. After receiving the written request and cost of the same from the employee for a retest of the original specimen, the MRO must immediately provide written notice to the laboratory that tested the original specimen to forward the same specimen to a second HHS certified laboratory documenting the date and time of the employee's request.

11. The cost of the additional laboratory analysis shall be borne by the employee; however, if the results of the original positive test are reversed (negative test), the City shall reimburse the employee for the second laboratory test. If the analysis of the specimen fails to reconfirm the presence of the drugs or drug metabolites found in the primary specimen, the MRO shall cancel the same/original specimen test and report the cancellation and reasons for it to the City, other applicable agencies and the employee. Samples that yield positive results on confirmation must be retained by the testing laboratory in properly secure, long-term frozen storage for at least three hundred sixty-five (365) days.

12. The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, employees should use extreme caution when using any non-prescription medication which carries a warning label that indicates that mental functioning, motor skills, or judgment could reasonably be impaired. When taking such medications employees should seek medical advice, as appropriate, before performing work-related duties, and shall first notify their supervisor or a designated supervisor within

the departmental chain of command, of any impairment which they may be experiencing.

13. When taking prescription medications, employees must seek specific advice from their physician that the substances in a prescription will not impair their mental functioning, motor skills, judgment, or their ability to perform their essential job functions. Before performing work-related duties, employees shall first notify their supervisor, or a designated supervisor within the departmental chain of command, of any actual or potential adverse effects which are occurring or which they have been advised may occur. Upon being notified of actual or potential adverse effects from the substances in a prescription, the supervisor notified by the employee shall be responsible for either reassigning the employee to non-hazardous work tasks where possible or requiring the employee to take leave consistent with City policy.

14. An employee who undergoes a random test and receives a confirmed positive test result shall be subject to the appropriate discipline up to, and including, termination. Any termination resulting from a confirmed positive test result shall be subject to Article 28 (Grievance Procedure) and Article 29 (Arbitration) of this Agreement.

15. In the interest of public and employee safety, and the professional image of City government, a police officer shall be subject to discipline up to, and including, termination from employment if found to be using any illegal controlled substances while on or off duty or if found to be illegally possessing, dispensing, or selling any controlled substances while on or off duty.

ARTICLE 20

LEAVE BENEFITS

For Bargaining Unit Employees, the City agrees to continue in effect the below listed leave benefit programs:

- Observed Holidays - New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Juneteenth, Independence Day (4th of July), Labor Day, Veteran's Day, Thanksgiving, the day after Thanksgiving, Christmas Eve and Christmas Day.
- Annual Leave
- Sick Leave
- Personal Leave
- Bereavement Leave
- Court Leave
- Conference Leave
- Leave of Absence
- Family and Medical Leave
- Military Leave
- Domestic Violence Leave

Leave benefits listed herein shall be accrued and administered in accordance with provisions contained in the City's Personnel Policy and Procedures Manual, Section 5 Benefits and in accordance with WHPD General Order 22.1 (Compensation, Benefits and Conditions of Work).

Subject to eligibility and leave benefit accrual, Bargaining Unit employees also will be permitted to participate in the City's established Sick/Personal Leave Benefit Option (Sick Buy-Back) and Sick Leave sharing programs.

During the term of the Agreement, should the City deem it necessary to make improvements in leave benefit programs identified above, and currently provided, either party may reopen the

contract for the purpose of negotiating said changes. If the parties fail to reach agreement, the dispute will be resolved through the statutory impasse procedure provided for by law.

ARTICLE 21

INSURANCE BENEFITS

Medical and Dental:

The Parties agree that elective health and dental insurance benefits will be administered in accordance with WHPD General Order 22.1 and City Policy. The PBA acknowledges that the medical and dental insurance plan, coverage and contributory rates charged by the City to employees for elective insurance coverage benefits are set by City of Winter Haven.

Life Insurance:

The parties agree that the City will provide all regular fulltime Bargaining Unit members with $10,000 worth of life and accidental death and dismemberment (AD&D) insurance at no cost to the member. Bargaining members may, at their expense, choose to acquire additional, optional life insurance in an amount equal to their annual salary rounded to the nearest thousand dollars, up to a maximum of $50,000 through the City Plan; members who elect optional life insurance through the City Plan will be charged a premium that will be payroll deducted.

At the City's expense, and in alignment with Florida Statutes 112.19 and 440.16, a combined total of $250,000 worth of additional life insurance which serves as an in-the-line-of duty death benefit will be acquired and maintained for actively employed Bargaining Unit members who meet State Minimum Law Enforcement Standards. In the event of an in line of duty death, benefits will be administered in accordance with established law, General Order and City policy provisions.

ARTICLE 22

EDUCATION ASSISTANCE AND RELATED INCENTIVE

The Parties agree that career development and continuing education initiatives will be administered in accordance with WHPD General Order 33.2 and City Personnel Policy and Procedures Manual Section 5.19 Educational Assistance.

Accordingly, non-probationary, regular fulltime Bargaining Unit members can apply for financial assistance to voluntarily pursue a college degree, obtain vocational training and certifications or acquire necessary continuing education units. Financial assistance approval is contingent upon job or job promotional relatedness; the specific coursework, training or certification chosen and whether it is expected to enhance an employee's job knowledge, skills, and abilities, and be of value to the City.

Employees desiring education assistance reimbursement/advancement shall, in advance of the program beginning, submit a City of Winter Haven Education Assistance application to Police Administration requesting approval for program participation. If approved, the application will be forwarded to Human Resources for processing in accordance with City policy and education assistance guidelines.

The award of financial assistance, along with any subsequent incentive pay, is dependent upon available funding and the member fulfilling certain terms and conditions related to continuity of employment, submittal of receipts, acquisition of a specified grade, at least a "B," etc.

ARTICLE 23

PERSONAL PROPERTY - REPLACEMENT AND/OR REIMBURSEMENT

Other than the employee's watch or prescription glasses, any personal property subject to replacement or reimbursement pursuant to this Article must be approved in advance by the City as being required by the employee to adequately perform the duties of his position.

Thereafter, an employee who, while on duty and acting within the scope of employment, and through no fault or negligence of their own, suffers the damage, destruction or loss of their watch, prescription glasses, or other personal property approved pursuant to the above paragraph will be reimbursed, have such property repaired, or have such property replaced with an item which is of the same or a similar quality, as described in this Article; provided, however, that:

- The Agency has the option to decide whether a specific piece of property is repaired versus replaced;
- The employee shall not be reimbursed or have property repaired or replaced if the Agency determines that the damage, destruction or loss resulted from the employee's negligence; and
- The employee shall not be reimbursed more than the deductible if the item is covered by insurance.

An employee who wants to be reimbursed or have personal property repaired or replaced must:

1. File a written request and report detailing the circumstances under which the property was damaged, destroyed or lost; and
2. Document the amount expended to repair or replace such property.

After meeting the conditions described above, the City or designee shall authorize reimbursement not to exceed the following amounts:

- Watch – up to ($100)
- Prescription glasses not to exceed two hundred dollars ($200)
- Other Items - the City or designee shall have final authority to determine the reimbursement value of any items other than watches or prescription glasses

The City's obligation to reimburse Bargaining Unit members under this section shall not exceed five hundred dollars ($500) per Bargaining Unit member per annum.

ARTICLE 24

TRAVEL REQUESTS AND EXPENSES

Travel requests and expense practices shall be administered in accordance with the City's established Accounting procedures which may be amended from time to time. Any Bargaining Unit member who anticipates the need to travel outside of the county for a public purpose, especially in the case of overnight travel, must in advance prepare and remit to Police Administration the appropriate travel request forms. If the travel is authorized by the Police Chief, designee and the City Manager, reimbursement of travel expenses will be considered and limited to the following:

- Registration fees, if applicable
- Meals plus gratuities at authorized per diem rates
- Motel/Hotel expenses for single occupancy only unless two City employees on approved travel share a room
- Other travel related expenses approved by the City

As a general rule and when available, Bargaining Unit members will utilize agency issued vehicles for official travel when going out of town, in which case mileage will not be reimbursed. In the event circumstances warrant the Bargaining Unit member driving a privately-owned vehicle (POV), the reimbursement of mileage at the established, authorized rate will be reimbursed to the member.

All authorized travel reimbursement will be for receipted expenditures only accompanied by the proper forms and will be processed according to established accounting procedures.

ARTICLE 25

AGENCY ASSIGNED VEHICLES

Agency assigned vehicles and Bargaining Unit member use, care, custody and control of said vehicles shall be in accordance with General Order 16.4.

Bargaining Unit members who apply, meet the eligibility requirements and are assigned a City take-home vehicle will not be assessed a fee for the use of said vehicle provided the Bargaining Unit member resides within Polk County. Members who reside outside of Polk County may elect to participate in the take-home vehicle program if their county of residence is contiguous to Polk County and is within a one hour driving distance of the City of Winter Haven but will be charged a flat rate of $30 dollars bi-weekly for use of the vehicle. This flat rate shall be charged through payroll deduction.

The agency assigned vehicle may be used solely for official business, and extra-duty law enforcement employment; while operating the vehicle, the member shall be armed, monitoring their radio, and available to respond to emergencies. Personal use of the vehicle shall be restricted to use of the vehicle to and from classes and running errands which fall along the member's route to or from work, or during the member's travels while on duty.

Members who are on-call may use their assigned vehicle with no restrictions on personal use, within Polk County only, and only during the shift they are on-call. However, this extension of personal use applies only to the member; non-WHPD employees may not be transported.

Assigned vehicle privileges may be suspended or terminated at the discretion of the Chief of Police or designee and/or for a Bargaining Unit member's violation of any of the provisions of this Article, General Order 16.4, or City policy.

ARTICLE 26

INTERNAL INVESTIGATIONS

The parties recognize that law enforcement personnel occupy a special place in American society. Therefore, it is understood that the City has the right to expect that a professional standard of conduct be adhered to by all law enforcement personnel regardless of rank or assignment.

Since internal investigations may be undertaken to inquire into complaints of law enforcement misconduct, the City reserves the right to conduct such investigations to uncover the facts in each case, but expressly agrees to carefully guard and protect the rights and dignity of accused personnel. In the course of any internal investigation, the investigative methods employed will be consistent with Sections 112.532, 112.533, 112.534 and 112.536 Florida Statutes.

The parties agree that all internal investigations will be conducted in accordance with WHPD General Order number 26.1 (Disciplinary Procedures) and 52.1 (IA).

ARTICLE 27

DISCIPLINE AND DISCHARGE

The City shall have the ability to discharge any new hire probationary employee for any reason whatsoever. Such discharge shall not be subject to the Grievance Procedure provision of this Agreement.

The City may impose discipline, progressive or otherwise, or discharge any employee for any offense or violation of any City or department policy, rule, or regulation. Further, the City expressly agrees to carefully guard and protect the rights and dignity of accused personnel. In the course of any internal investigation, the investigative methods employed will be consistent with Florida State Statutes 112.532, 112.533, 112.534 and 112.536.

The parties agree that for the purpose of progressive discipline, previous incidents may be considered as long as the previous incidents occurred within twenty-four (24) months of the current incident.

The City shall endeavor to complete all disciplinary investigations as expeditiously as possible and shall, within thirty (30) days following the completion of an investigation, determine the disciplinary action, if any, that it proposes to administer.

All disciplinary appeals will be conducted in accordance WHPD General Orders 1.2 (Professional Conduct and Responsibilities), 26.1 (Disciplinary Procedures), 52.1 (Internal Affairs) and the appeals process provided for under the Laws of Florida, Chapter 86-342.

If an employee grieves a discipline, unless otherwise required by law, documents reflecting said discipline shall not be placed in the employee's personnel file until the Grievance Procedure, through Arbitration, has concluded.

Excepting progressive discipline and annual performance evaluation reviews, and without limiting the ability of the City to rely on prior offenses occurring within four (4) years of the offense at

issue as evidence in Arbitration proceedings, no employee shall be double disciplined for the same act or offense.

Discipline must be for just cause. At an Arbitration hearing, if the City proves by a preponderance of evidence submitted through testimony and/or documentary evidence that the employee has violated any City or department policy, rule, or regulation, the City shall be deemed to have satisfied its initial burden of proving just cause for the particular punishment imposed by the City and the burden will shift to the employee and/or PBA to rebut the City's proof of just cause.

The employee and/or PBA may then produce evidence as to why just cause for the discipline imposed does not exist under the particular circumstances of the case by showing that (1) the employer did not conduct a thorough investigation prior to disciplining the employee, or (2) the employer has treated similarly situated employees in a disparate manner, or (3) the degree of discipline administered by the employer was not reasonably related to the seriousness of the employee's proven offense.

ARTICLE 28

GRIEVANCE PROCEDURE

Any claim by an employee, group of employees, or the PBA that there has been a violation, misinterpretation or misapplication of any provisions of this Agreement, or any document incorporated herein by reference, shall be processed as a Grievance, with the exception that probationary employees and the PBA on their behalf may not file a grievance related to their discipline and/or discharge.

An employee may be accompanied by a PBA representative at each step of the Grievance procedure; however, nothing in this Article shall require the PBA to process Grievances from and on behalf of employees who are not dues-paying members.

Grievances shall be presented as set forth below:

Step 1. Within fifteen (15) business days from the time the employee or the PBA could have reasonably known of the occurrence giving rise to a Grievance, the employee and PBA representative (if applicable) shall first informally discuss the Grievance with the employee's immediate supervisor and/or the person at the next level in the chain of command. The supervisor shall reach a decision and communicate it to the employee and PBA fifteen (15) business days after the informal discussion occurs.

Step 2. Within fifteen (15) business days of the decision being communicated, if the employee and PBA are not satisfied the Grievance shall be presented in writing to the Public Safety Director and/or Deputy Police Chief. Fifteen (15) business days after receiving the written Grievance the Public Safety Director and/or Deputy Police Chief shall meet with the employee and PBA representative, and issue a written determination regarding the Grievance.

Grievances arising from suspensions for more than one (1) day will initiate at Step 2 and time limits prescribed therein shall apply.

Step 3. Within fifteen (15) business days of the Step 2 reply being issued, if the employee and PBA are not satisfied the Grievance shall be presented to the City Manager. Fifteen (15) business days after receiving the written Grievance, the City Manager or his designee shall meet with the employee and PBA and endeavor to reach an adjustment of the Grievance. A written answer shall be presented to the employee and PBA within fifteen (15) business days of the meeting with the City Manager or designee occurring.

Grievances relating to internal promotions and/or terminations will initiate at Step 3 and time limits prescribed therein shall apply.

If the employee and/or PBA are not satisfied with the Step 3 outcome, the PBA may proceed to Arbitration in accordance with the terms specified within this Agreement.

If at any time in the above described procedure the City does not respond within the prescribed time limits, the Grievance shall automatically proceed to the next step. If the employee and/or PBA do not adhere to the time limits set forth herein, the Grievance will be deemed dropped and will not be actionable.

The Association is authorized by the members covered in this agreement to enter into the settlement of grievance disputes on their behalf.

Time limits in this Grievance Procedure Article may be extended upon mutual, documented (i.e. written) consent of the parties.

Nothing in this Article precludes an employee from electing to use the City's Appellate Process procedure. However, once the choice is made, the employee cannot use both procedures for one set of facts and circumstances.

PBA representatives may investigate or otherwise handle Grievances during working time, as long as there is no unreasonable interference with the operational needs of the City. However, the City

shall not be obligated to pay employees for time spent in preparing for or attending Arbitration proceedings as articulated within this Agreement.

No employee shall suffer any retaliation for exercising their rights under this Agreement Article.

ARTICLE 29

ARBITRATION

In the event a Grievance has not been settled under the Grievance Procedure Article in this Agreement, the PBA shall have the right to Arbitrate said Grievance as herein provided:

1. A demand for Arbitration shall be made in writing within thirty (30) calendar days from and after receiving the City Manager's (or designee's) answer.

2. Within ten (10) business days of either party requesting Arbitration the parties may mutually agree on the selection of an Arbitrator. In the event that the parties cannot mutually agree on the selection of an Arbitrator within ten (10) business days of the Arbitration request, the party seeking Arbitration shall request a list of seven (7) Arbitrators from the Federal Mediation and Conciliation Service. The parties shall alternately strike the names from the list, with the PBA striking first, and the remaining name shall be the Arbitrator.

3. The Arbitrator shall promptly conduct the hearing on the Grievance at which both parties shall be permitted to give evidence and argument. The decision of the Arbitrator shall be rendered in writing and shall be final and binding on all parties. In addition:

    a. The Arbitrator's decision shall be in writing and shall set forth the arbitrator's opinion and conclusions on the issue(s) submitted.

    b. The Arbitrator shall have no authority to determine any issue not expressly submitted to the arbitrator.

    c. The Arbitrator shall limit his/her decision strictly to the application and interpretation of the specific provisions of this Agreement at issue in the Grievance.

4. The Arbitrator's award may include back pay to the grievant(s); however, the following limitations shall apply to such monetary awards:

    a. No award for back pay shall exceed the amount of pay the employee would otherwise have earned at the regular rate of pay, including overtime, and such back pay shall not be retroactive to a date earlier than the date of the occurrence of the event giving rise to the Grievance under consideration and in no event more than the time limits permitted for initiation of the Grievance.

    b. The award shall not exceed the actual loss to the grievant, will not include non-economic compensatory or punitive damages, and will be reduced by the amount of wages earned from other sources and/or unemployment compensation received by the employee during the period of time affected by the award.

In the event issues of arbitrability of the Grievance arise, the Arbitrator shall hear the issues of arbitrability before proceeding to the merits of the case. However, there shall be only one proceeding, unless otherwise requested by the Arbitrator, and the issues of arbitrability of the Grievance and merit shall not be bifurcated into two separate proceedings.

The costs of the Arbitrator and of the Arbitration, including a court reporter and any transcript of the Arbitration, shall be borne equally by both parties.

ARTICLE 30

STRIKES AND LOCKOUTS

The PBA agrees that during the life of this Agreement there shall not be any strikes within the meaning of Section 447.203(6) Florida Statutes, including sympathy strikes, honoring of picket lines, the concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment or in response to a City filed charge of an Unfair Labor Practice. This provision shall not be construed to prohibit activities that are legally protected.

The City agrees during the life of this Agreement that it will not lock out employees from reporting to work.

It is the intent of the parties that either may have full and immediate resort to the courts to secure enforcement of this Article. Therefore, upon proof of a violation of this Article, any court of competent jurisdiction may issue a temporary restraining order and/or an injunction enforcing this Article as the parties agree any violation of this Article would and will cause irreparable injury.

ARTICLE 31

LAYOFF AND RECALL

The City shall notify the PBA no later than thirty (30) days prior to any decision to lay off any employee covered under this Agreement.

Employees shall be laid off in the inverse order of departmental seniority, except as limited below.

The City shall consider, but not be bound by, the following factor:

- Prior formal education and certifications relevant to the job.

If the foregoing factor is deemed substantially equal between two or more employees, date-of hire seniority will control.

Employees will be selected for recall based upon prior formal education, certifications, and departmental seniority.

ARTICLE 32

CONTRACT CONSTITUTES ENTIRE AGREEMENT OF THE PARTIES

This Agreement, upon ratification, constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term.

During the negotiations which resulted in this Agreement, each party had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

Therefore, it is understood that both the City and PBA waive their right to modify, amend, or add to the terms of this Agreement except by mutual consent and that the terms of this Agreement constitute a complete understanding between the parties. However, amendments to this Agreement, if mutually agreed to by both parties hereto, may be made at any time, provided such amendments are reduced to writing, signed by the authorized representatives of the parties and submitted to ratification as required by law.

ARTICLE 33

SAVINGS CLAUSE

If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid, unlawful, or not enforceable, by any court action or by reason of any existing or subsequently enacted legislation; or if the appropriate governmental body, having amendatory power to change a law, rule or regulation which is in conflict with a provision of this Agreement, fails to enact or adopt an enabling amendment to make the provision effective, in accordance with Section 447.309(3), Florida Statutes; then such provision shall not be applicable, performed or enforced, but the remaining parts or portions of this Agreement shall remain in full force and effect for the term of this Agreement.

ARTICLE 34

WINTER HAVEN POLICE OFFICERS' PENSION PLAN
MUTUAL CONSENT FOR USE OF STATE PREMIUM TAX REVENUES

The parties acknowledge that an election by the Winter Haven Police Officers' Pension Plan membership was held from March 8, 2016 to March 15, 2016 to determine the use of State Monies as it relates to the Police Officers' Pension funding. The members of the Plan voted to allow the City to use the Reserve State Monies to pay down the Unfunded Actuarial Liability and to use future State Monies to fund the benefits that are currently in place.

Pursuant to Chapter 2015-039, Florida Statutes, the parties to this agreement Mutually Consented to utilize all available Florida Statutes Chapter 185 State Premium Tax Revenues, including any and all monies in the Excess State Monies Reserve and any and all future State funding attributable to the Winter Haven Police Officers' Pension Plan.

ARTICLE 35
EMPLOYEE COMPENSATION AND WAGES

Compensation for members of the bargaining unit will be administered in accordance with City Policy and WHPD General Order Number 22.1 (Compensation, Benefits and conditions of work). The Association agrees to support the City's goal of paying all overtime in lieu of granting compensatory leave, unless the budget precludes payment of overtime. Any other time or leave taken will not be considered hours worked for the purposes of overtime computation.

The Performance Compensation Step Plan (Plan) was established October 1, 2021, and shall remain in effect throughout the duration of this Agreement. The Plan provides all City employees an opportunity to achieve a pay adjustment to the next step within the pay grade if the employee receives a satisfactory performance evaluation or better. The adjustment would occur on the employee's anniversary date. Should an employee not achieve a satisfactory performance rating or better, the employee will be placed on a Performance Improvement Plan (PIP) and will not be eligible for a pay adjustment to the next step within the pay grade until their next anniversary date, assuming the employee completes the PIP requirements.

When an employee receives a PIP, the employee will be placed on a six (6) month probationary period and advised of their performance deficiencies and be provided a plan of action to aid in achieving a satisfactory, or better, performance evaluation. During the six (6) month probationary period, the employee will be re-evaluated, and if at the end of the six (6) month probationary period the employee has received a satisfactory evaluation, the employee will be released from probation but will not receive a pay adjustment. If the employee has not fulfilled the PIP and does not receive a satisfactory evaluation at the end of the six-month probationary period, the employee may be dismissed.

The following demonstrates what the Plan's pay adjustment will be for the next three years:

Fiscal Year 24/25	2.5% Employee Pay Adjustment
Fiscal Year 25/26	2.5% Employee Pay Adjustment
Fiscal Year 26/27	2.5% Employee Pay Adjustment

On each five (5) year increment anniversary, the employee will have a performance-based opportunity to receive a 3.5% pay adjustment for that year only then return to the normal performance-based step schedule.

Section 1 – New Officers

Effective October 1, 2024, the starting salary for the position of a Police Officer shall increase by $3,016 annually. The hourly increase shall reflect the number of hours scheduled to work and the number of hours of the twelve (12) observed holiday benefit (Article 14). (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total of 2,328 hours. $3,016 / 2,328 = $1.30 / hour increase, for a new hourly rate of $26.08.)

Effective October 1, 2024, the starting salary for a newly promoted Police Sergeant shall increase by $3,224 annually. The hourly increase shall reflect the number of hours scheduled to work and the number of hours of the twelve (12) observed holiday benefit (Article 14). (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total 2,328 hours, $3,224 / 2,328 = $1.39 / hour increase, for a new hourly rate of $32.75 / hour.) (Rounding up for the benefit of the employee).

Effective October 1, 2025, the base pay for starting Police Officer shall be adjusted five percent (5%), to $27.38 / hour.

Effective October 1, 2025, the base pay for starting Sergeant shall be adjusted five percent (5%), to $34.39 / hour.

Section 2 – Incumbent Staff

Effective October 1, 2024, all full-time incumbent Sergeant and Officers shall receive an annual wage increase in the amount of $3,224.

Sergeants and Officers assigned to Patrol who work a bi-weekly schedule of eighty-four (84) hours per pay period, shall receive an hourly increase of $1.39, which includes the twelve (12) observed holiday hour benefits of one hundred forty-four (144) hours annually. (Patrol is scheduled to work 2,184 annual hours and receive 144 annual observed holiday hours, for a total of 2,328 hours. $3,224 / 2,328 = $1.39 / hour increase.)

Sergeants and Officers assigned to Detectives and Motors who work a bi-weekly schedule of eighty-two and a half (82.5) hours per pay period, shall receive an hourly increase of $1.50 which includes the twelve (12) observed holiday hour benefits of ninety-nine (99) hours annually. (Detectives and Motors are scheduled to work 2,145 annual hours, which includes the 99 annual observed holiday hours, for a total of 2,145 hours. $3,224 / 2,145 = $1.50 / hour increase.)

Effective October 1, 2025, all bargaining unit members shall receive a six percent (6%) pay adjustment to their hourly rate of pay.

Section 3 – Additional Compensation

1. Bargaining Unit members who are assigned as Field Training Officers/Sergeants shall be compensated at the rate of $25 for each Daily Observation Report (DOR) completed. This shall be a flat rate and will factor into a member's overtime.

2. Shift Differential is established for bargaining unit members. Members assigned to a patrol night shift schedule shall receive $80.00 per fourteen (14) day pay period. Shift differential shall be a flat rate and will factor into a member's overtime. Members will earn shift differential while on approved leave.

3. Members assigned to the canine will be afforded a pay differential as follows:

    1. October 1, 2024, to September 30, 2025, $136.50 paid bi-weekly
    2. October 1, 2025, to September 30, 2026, $147.00 paid bi-weekly
    3. October 1, 2026, to September 30, 2027, $157.50 paid bi-weekly.

These rates shall be a flat rate and will factor into a member's overtime. The City shall provide bargaining unit members assigned to canine with all required equipment according to the Department General Order 41.3.

ARTICLE 36

PROMOTIONS

The promotional process shall be in accordance with WHPD General Order 34.1.

Sergeant:

The eligibility requirements to test for promotion to Sergeant are:

A. A minimum of five (5) years as a full-time law enforcement police officer with the WHPD. The Chief may grant a waiver of service time for employees who will fulfill the service requirement within the validity of the eligibility list.
B. Hold an Associate's Degree from an accredited college or university or possess a minimum of thirty (30) college credit hours towards an Associate's Degree and obtain an Associate's degree, or obtain sixty (60) college credit hours towards a Bachelor's degree or higher, from an accredited university or college within thirty-six (36) months after promotion. A Bachelor's degree is preferred.
C. If the Bargaining Unit member fails to obtain the sixty (60) college credit hours towards a Bachelor's Degree or higher or obtain an Associate Degree within thirty-six (36) months after promotion, the Bargaining Unit member MUST be demoted by the Chief. There are no waivers for this section.
D. Cannot be on disciplinary probation at the time of the testing process.
E. Completion of a FDLE CJSTC Line Supervision Course, or equivalent.
F. Active certification in law enforcement at the time the promotional exam is given.

Chief's Discretion:

The parties agree the Chief may make exceptions to the eligibility requirements listed in Item A in the above section if doing so would favor the employee.

Eligibility Lists:

Eligibility lists shall be valid for a period of two (2) years from the date the evaluation process is completed and official scores are released. If there are less than five (5) eligible persons remaining on the list, the City may call for another promotional process. Individuals who are still on the current eligibility list may choose to either participate in the new promotional process or request that their names be carried over to the new eligibility list. However, a carryover may occur only one time.

ARTICLE 37

DURATION – MODIFICATION - TERMINATION

Term:

This Agreement, upon its ratification by all appropriate parties, shall become effective on October 1, 2024, and shall remain in full force and effect until 12:00 o'clock midnight on the 30th day of September 30, 2027.

Prior to October 1, 2025 and 2026, the parties agree to reopen the Agreement for the purpose of negotiating wages and up to two (2) articles.

Notices:

Notices hereunder shall be given by registered or certified mail, and if by the City shall be addressed to the Association at 300 East Brevard Street, Tallahassee, Florida 32301; and if by the Association shall be addressed to the attention of the City Manager at P.O. Box 2277, Winter Haven, Florida 33883-2277. Either party may, by a like written notice, change the address to which such notice shall be given. Notices shall be considered to have been given as of the date shown on the postmark.

Emergencies:

If it is determined that civil emergency conditions exist, including, but not limited to, riots, civil disorders, hurricane conditions, or similar catastrophes, the provisions of this Agreement may be suspended by the City during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended. It is understood that a declared emergency may be limited to specific geographic areas, in which case suspension of the terms of this Agreement as provided above, would apply only to those bargaining unit employees permanently or temporarily assigned to such areas.

IN WITNESS THEREOF, the parties hereto have hereunder set their hands and seals this _____ day of _____, 2025.

FLORIDA POLICE BENEVOLENT ASSOCIATION, Inc.

By: _____
George Corwine
Chief Labor Negotiator

Date: _____

By: _____
Nick Marolda
President
West Central Florida PBA

Date: _____

CITY OF WINTER HAVEN, FL

By: _____
T. Michael Stavres
City Manager

Date: _____

DATE: August 26, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Amanda-Jo Nicholson, Assistant to the City Manager

SUBJECT: Authorization for Travel and Training

BACKGROUND

In April 2011, the City Commission amended the City's Policy Relating to the Travel and Training Expenses for Both Officials, Employees, and City-Sponsored Boards and Committees. As part of the amended policy, any travel and training for the City Manager and City Commissioners must be presented to the City Commission for pre-authorization prior to attending a convention, conference or training program.

In accordance with the City Commission's Policy, authorization is requested for the following:

Event: Florida League of Cities (FLC) Board meetings

Locations & Dates: Sept 19-20, 2025 – St. Pete Beach, FL
Dec 3, 2025 – Orlando, FL
January 28, 2026 – Tallahassee, FL
June 5, 2026 – Palm Beach, FL
Aug 14, 2026 – Hollywood, FL

Attendee: Mayor Pro Tem Yates

FINANCIAL IMPACT

All expenses are reimbursed by FLC. Mayor Pro Tem Yates was appointed to serve as an FLC board member in August 2025. In his capacity as board member, he will use personal funds and be reimbursed by FLC.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Responsible Government
- **Goal:** 6.2 – Engage and participate in legislative matters (State & Federal) and advocate for Home Rule and local priorities.

- **Strategy:** 6.2.1 – Strategically engage in local, State and national professional organizations and coalitions.

RECOMMENDATION

Staff recommends the City Commission authorize travel as outlined above.

ATTACHMENTS

- 2025/2026 Board meeting dates
- Appointment to FLC Board

2025 - 2026
FLC BOARD MEETING SCHEDULE

September 19 – 20, 2025*

Don CeSar, St. Pete Beach

December 4, 2025

In conjunction with Legislative Conference
Renaissance Orlando at Seaworld, Orlando

January 28, 2026

In conjunction with Legislative Action Days
Tallahassee, Florida

June 5, 2026*

Eau Palm Beach, Palm Beach, FL

August 14, 2026

In conjunction with the Annual Conference
Diplomat Beach Resort, Hollywood

*The League is authorized to reimburse the expenses of Board members incurred in their attendance at Board meetings, which do not coincide with the Legislative Conference, Legislative Action Days and Annual Convention of the Florida League of Cities.

FLC
FLORIDA LEAGUE OF CITIES

August 19, 2025

Honorable Brian Yates
Mayor Pro Tem, Winter Haven
PO Box 2277
Winter Haven, FL 33883-2277

Dear Mayor Pro Tem Yates:

Congratulations on your appointment to the Board of Directors of the Florida League of Cities! Your role is vital to the success and operations of our League, and we are honored to have you join us.

We look forward to your active participation and the unique perspectives you will bring to our discussions and initiatives.

Please mark your calendar for the upcoming Board of Directors meetings. The next meeting is scheduled for September 19-20, 2025, at the Don CeSar in St. Pete Beach, FL. We highly encourage you to attend the New Board Member Orientation on **Friday, September 19, at 10:30 a.m.** You will receive a meeting notice via email in the coming days, along with additional information and an agenda packet as we approach the meeting date.

We are excited to work with you and are confident that your contributions will help us achieve our goals. If you are ever in Tallahassee, please feel free to stop by the League's headquarters. We would love to welcome you in person.

Respectfully,

Jeannie Garner
Executive Director/CEO

DATE: September 11, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Amanda-Jo Nicholson, Assistant to the City Manager

SUBJECT: Authorization for Travel and Training

BACKGROUND

In April 2011, the City Commission amended the City's Policy Relating to the "Travel and Training Expenses for Both Officials, Employees, and City-Sponsored Boards and Committees". As part of the amended policy, any travel and training for the City Manager and City Commissioners must be presented to the City Commission for pre-authorization prior to attending a convention, conference or training program.

In accordance with the City Commission's Policy, ratification of the City Manager's attendance at the September 23, 2025 FLC Legislative Meeting is recommended.

Event:	Florida League of Cities (FLC) Legislative Meeting
Dates:	September 22-23, 2025
Location:	Tallahassee, FL
Attendee:	City Manager Stavres

FINANCIAL IMPACT

Travel related expenses associated with the travel outlined above will be accounted for within the City Manager's cost center. Accommodation expenses will be covered by the FLC.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Responsible Government
- **Goal:** 6.2 – Engage and participate in legislative matters (State & Federal) and advocate for Home Rule and local priorities.
- **Strategy:** 6.2.1 – Strategically engage in local, State and national professional organizations and coalitions.

RECOMMENDATION

Staff recommends the City Commission ratify the travel as outlined above.

DATE: September 12, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Brittany Hart, Public Works Director

SUBJECT: Emergency Rental of four (4) Solid Waste Vehicles from RDK Truck Rentals

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BACKGROUND

On May 2, 2025, only four (4) residential side-loaders were available to service both residential garbage and recycling routes due to all remaining residential trucks being inoperable or awaiting major maintenance and repairs with part availability further contributing to the challenge. In order to provide residential solid waste services to the community, the operation requires a minimum of eight trucks be operational. The shortage of vehicles at the time, placed a significant strain on the solid waste operations. The high number of out-of-service vehicles impacted fleet's ability to service other department vehicles and prolonged downtime of other essential equipment.

To address these circumstances, staff determined it was necessary to rent automatic side-load trucks to ensure uninterrupted residential solid waste services. This action also provided critical relief to Fleet Maintenance allowing the division to prioritize the repair of downed solid waste vehicles as parts became available and prioritize other vital equipment across the organization.

RDK Truck Rentals provided four (4) 2024 automatic side-load trucks at a cost of $8,500 per truck, per month. As a part of the rental agreement, RDK was responsible for all truck maintenance and supplied a replacement vehicle in the event that any of the rented trucks became inoperable, to ensure continued operations. The original start of the rental period was May 2nd through June 2nd, however, as part availability and truck deficiencies have persisted, the rental has extended through September and is scheduled to end on October 1, 2025. The total cost of the rentals through September is $136,000, paid from the Residential Solid Waste Fund.

Given the critical role that the Solid Waste vehicles play in collection operations, an emergency purchase justification was completed to allow for the immediate rental of vehicles, to ensure collection of waste throughout the city.

FINANCIAL IMPACT

The total cost for the rentals until October 1st is $136,000. The expense is paid from the rental line within the residential solid waste fund; however, this is an unbudgeted expense.

STRATEGIC PLAN ALIGNMENT

This is an emergency purchase associated with operations of the City not specifically defined as a goal or strategy within the Strategic Plan. However, it aligns with strategic pillars of Environmental Stewardship and Responsible Government.

RECOMMENDATION

Staff recommends the City Commission ratify the City Manager's authorization of the Emergency Purchase Justification and authorize issuance of a change order in the amount of $102,000 for rental of the vehicles through October 1st.

ATTACHMENT

- Emergency Purchase Justification with Quotes – RDK Truck Rentals

EXHIBIT G

JUSTIFICATION FOR EMERGENCY PURCHASE FORM

If the emergency requires **immediate** action the user Department/Division is authorized to proceed and advise Procurement of action taken. This form must be submitted with the related paperwork (sales ticket, bill, delivery slip receipts, etc.) by the close of business of the next business day following the emergency. The emergency purchase of goods and/or services is defined as any purchase made in response to a requirement for goods and/or services in which a delay would adversely affect the public health or safety of the citizens of the City as well as any immediate repairs that are needed to prevent further damage to public property, machinery, or equipment.

Department/Division Public Works / Solid Waste

Date and Location of **Emergency**: 05/02/2025

Proposed **Emergency Purchase** vendor RDK Truck Rentals

Describe **Emergency** and action taken: See attached.

Total cost or estimated cost of **Emergency Purchase** $ $34,000
(Estimated cost must include unit costs)

Additional Quotes (if any): None.

Brittany Hart 05/02/25
Requestor Name (print) / Date

Brittany Hart. 05/02/2025
Division/Department Director's Approval / Date

Procurement Approval / Date

Finance/Budget Approval / Date

City Manager's Approval / Date

City of Winter Haven
Public Works

EMERGENCY PURCHASE JUSTIFICATION AND ACTION TAKEN:

Residential Solid Waste Operations currently has only four residential collection trucks operational and available to service garbage and recycling routes, while a minimum of eight are needed to meet service demands. Several trucks are inoperable and awaiting maintenance and repairs, with parts availability presenting an ongoing challenge.

The high volume of out-of-service solid waste vehicles has also placed additional strain on the City's Fleet Maintenance operations, impacting their ability to service vehicles from other departments and prolonging downtime for other essential equipment.

Due to these extenuating circumstances, it has become necessary to rent automatic side-load trucks to ensure the continued delivery of residential solid waste services throughout the City of Winter Haven. This action will also provide critical relief to Fleet Maintenance staff, allowing them to focus on repairing the downed solid waste vehicles as parts become available and prioritize repairs for other vital equipment across the organization.

RDK Truck Rentals is able to provide four (4) 2024 automatic side-load trucks at a cost of $8,500 per truck, per month. As part of the rental agreement, RDK will be responsible for all truck maintenance and will supply a replacement vehicle in the event any of the rented trucks become inoperable.

The rentals will be delivered May 2, 2025 and the rental period will be from May 2, 2025 until June 2, 2025.

Brittany Hart
PUBLIC WORKS DIRECTOR

Stock # 108554 **Invoice #** _____

RDK ASSETS, INC. dba RDK TRUCK SALES

3214 Adamo Dr • Tampa, Florida 33605 • (813) 241-0711 • FAX (813) 241-0414

Lessee Information		*Shipping Address*
Customer #	11872	SAME
Customer Name	CITY OF WINTER HAVEN	
	2501 MOTOR POOL RD	
	WINTER HAVEN, FL 33881	

Phone # 863-605-8541 P.O. #/Job # _____ Ordered By Brittany Hart

Project _____ Job Location _____ Salesman Shawn Gonser

Delivered By: ■ RKTR □ Lessee □ Other _____ Date/Time Shipped 05/02/25

Returned By: □ RKTR ■ Lessee □ Other _____ Date/Time Shipped _____

Serial Number	Tag	Equipment Description	Rental Term Monthly	Rate	Total
1CYAADAC7R1002223	DD56FJ	2024 Battle Motors Side Loader	1	$ 8,500.00	$ 8,500.00

Note: Rental Agreement is valid for a period of 1 months and cannot be canceled by returning equipment to RDK Assets. INC, dba RDK Truck Sales or an authorized rental location. Customer is responsible for ALL tire repairs, fuel and damages. See reverse side (Sec. 2) for allowance of hours.

Rental Starts 05/02/25 Mileage Out 8603 Hours Out 1398 Mileage In _____ Hours In _____

rental rate is $ $ 8,500.00 **If changes occur, applicable rental charges will result.**

No more than 60 hours per work week.
Customer is responsible for permits, licensing and repairs.
Oil & filters must be changed every 200 hours.
Customer is responsible for IFTA mileage tracking and reporting. Customer is responsible for displaying name and DOT Number on cab.
All reimbursable repairs need prior approval from RDK Assets, INC.

Minimum Rental Contract: Month to Month

Replacement Value of Vehicle: $354,900.00

Tax Rate 0.00%

Rental Amount	$ 8,500.00
Sales Tax	$ 0.00
Transportation	
Total	$ 8,500.00
Security Deposit* (Cash/Check)	$ 0.00
Total Due	$ 8,500.00

(*Security Deposit, net of any physical damage assessment, will be returned upon complete vehicle inspection by RDK Assets, INC, dba RDK Truck Sales)

LESSEE MUST CHECK ENGINE OIL, WATER AND FUEL DAILY. LESSEE MUST ADVISE LEESOR WHEN READY FOR PICK-UP. LESSEE AUTHORIZES THE DELETION OF ANY SAFETY EQUIPMENT AND ACCEPTS ALL LIABILITY FOR INJURY OR LOSS INCURRED. LESSEE IS RESPONSIBLE FOR ALL TIRES (to be returned with a minimum of 50% tread), MAINTENANCE, FUEL, MISSING PARTS, AND ALL DAMAGE OTHER THAN NORMAL WEAR AND TEAR.

Equipment shall be operated only by a qualified operator, licensed where required by the law, who is either Lessee or an authorized operator as set forth in this Agreement. Lessee is liable for all damage caused by striking overhead objects, and if equipment is used without Lessor's permission or in violation of this Agreement, or is damaged as a result of conditions enumerated on Page Two (reverse side), or conditions enumerated in the Loss and Damage Provisions, Lessee shall be liable for all damages. Lessee represents that the Equipment herein has been fully inspected by it and that same is in good condition.

PHYSICAL DAMAGE INSURANCE, LIABILITY, WORKMANS COMPENSATION, PROPERTY DAMAGE

Insurer _____ Policy No. _____ Exp. Date _____

Minimum Property Damage Coverage $_____ Date Insurance Certificate Received _____

BY EXECUTION OF THIS RENTAL AGREEMENT, LESSEE ACKNOWLEDGES THAT THE EQUIPMENT DESCRIBED HEREIN IS RENTED TO AND IN ACCORDANCE WITH THE TERMS, CONDITIONS AND PROVISIONS SET FORTH ABOVE (PAGE ONE) AND ON THE REVERSE SIDE OF THIS AGREEMENT (PAGE TWO) AND LESSEEREPRESENTS THAT LESSEE HAS READ AND AGREES TO ALL TERMS, CONDITIONS AND PROVISIONS OF THIS AGREEMENT. A FACSIMILE OF THIS AGREEMENT, OR ANY PART OF IT, SHALL BE ENFORCABLE AS AN ORIGINAL AND THIS AGREEMENT MAY BE EXECUTED AND ENFORECED IN COUNTERPARTS.

			Date
Lessee Signature _____	Prepared By:	Jasmine Garnicki	5/1/25
Lessee Name (please print) _____	Reviewed By:	Raquel Cordova	5/2/25
Drivers License # _____ State_____	Credit Approved By:		
Company Name_____	Security Deposit Received:		
Date_____	Security Deposit Returned:		

RKTR 3/09/2023

RDK ASSETS, INC. dba RDK TRUCK SALES

TERMS AND CONDITIONS

RDK Assets, INC. dba RDK Truck Sales, (Lessor), hereby rents to Lessee and Lessee hereby accepts from Lessor, the Equipment described on Page One ("Equipment") subject to all terms, conditions and provisions of this Agreement as set forth on Pages One and Two.

1. RETURN OF EQUIPMENT - Equipment is and shall remain the property of Lessor, and is in good repair and mechanical condition. Except as otherwise provided herein. Lessee shall return Equipment in the same condition as received, ordinary wear and tear excepted to the place from which rented on the date specified or sooner if demanded by Lessor. Lessee agrees that Lessor may apply any security deposit posted by Lessee towards Lessee's obligation under this Paragraph 1.

2. CHARGES - Lessee shall be liable for and shall promptly pay when due at the Lessor's office designated herein, all rental and other charges set forth herein, including but not limited to time, mileage, service, minimum 50% grade wear on tire, delivery, pick-up and other charges (including cost of fuel supplied by Lessor) in accordance with this Agreement or, if not stated herein, in effect at the location at which the rental is made; and, shall pay and/or reimburse Lessor for amounts equal to any sales tax, use tax, personal property tax, licenses, registration or fees levied or based upon the rentals of the Equipment or the use or the operation thereof. Rental payment is due at the beginning of each rental term. The daily, weekly and monthly rental shall entitle Lessee to a maximum of one-shift use (8 hours per day, 60 hours per week, 260 hours per month). Double-shift use will incur a charge of one-and-a-half (1 1/2) times the rental rate and triple-shift use will incur a charge of two (2) times the rental rate. Lessor shall have a lien as allowed by law for charges incurred hereunder upon premises and improvements upon which Equipment is employed. Rentals are F.O.B. the location at which this transaction was made. Shipping charges from such location to destination and return and all loading, unloading, assembling and dismantling shall be paid by Lessee.

3. USE OF EQUIPMENT - Equipment shall be used solely in Lessee's business and kept only at its place of business or job site (except that Equipment may be moved in the normal course of Lessee's business), and shall not be removed without prior written consent of Lessor. Lessee shall notify Lessor, prior to moving equipment from its place of business or the job site identified on Page One, of the location and project to which the equipment is relocated and the date(s) each piece of equipment is removed or placed on any job site. Lessee shall promptly respond to all requests by Lessor concerning the location of all equipment and any information requested by Lessor concerning the job site (including, but not limited to, the identity of the property owner, general contractor, surety, if any, and legal description of premises). Lessee agrees that Lessor may inspect the equipment at reasonable times whether at Lessee's place of business or a job site on reasonable written notice to, and in coordination with, licensee. Equipment shall be used only within its rated capacity by safe, careful, competent and qualified personnel. Lessee shall notify lessor immediately of any accident or occurrence, disablement or failure involving Equipment, and promptly furnish Lessor in writing all information required in connection therewith. Equipment shall not be used, operated, or driven: (A) to carry persons other than the driver or helpers; (B) to transport property for hire, unless all permits and licenses have been obtained by Lessee which are the sole responsibility of Lessee; (C) in violation of any law or ordinance; (D) by any person in violation of law as to age; (E) in any speed contests; and (F) by any person other than (1) Lessee; or (2) any of the following persons provided that such person is a qualified licensed driver and provided Lessee's permission is first obtained: (a) a member of Lessee's family, (b) Lessee's employer or (c) any employee of Lessee in the ordinary course of such employee's regular employment. If Equipment is used in violation of this Paragraph, or is obtained from Lessor by fraud or misrepresentation, or is used in furtherance of any illegal purpose, all use of Equipment is and shall be deemed used without Lessor's permission.

4. SERVICE - Lessee shall perform and pay for all normal, periodic and other basic service, adjustments and lubrication of Equipment, including but not limited to; checking of Equipment before each shift; and supplying fuel, oil and water; and checking cooling system (engine only); and, checking tire pressures and battery fluid and charge levels at least weekly. If Equipment fails to operate properly or needs repair, Lessee shall immediately cease using and notify Lessor forth-with, Lessee shall not make any alterations, additions or improvements to the Equipment without the prior written consent of Lessor.

5. INSURANCE - Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy of public liability and property damage insurance with bodily injury and death liability limits of at least $3,000,000 for each person in each accident and property damage liability limits of at least $1,000,000 on a primary and not excess or contributory basis against its liability for damages sustained by any person or persons including but not limited to employees of Lessee, as a result of the maintenance, use, operation, storage, erection, dismantling, servicing or transportation of Equipment. Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy covering any and all physical damage to the Equipment in the' amount referenced on the reverse side of this Agreement. Lessee shall, on demand, furnish Lessor a certificate of insurance with respect to each policy required by this Paragraph 5, which certificates shall provide that they may not be canceled or materially modified except on thirty (30) days prior written notice to Lessor. Further, Lessee shall ensure that the certificates of insurance referenced herein shall name the Lessor as the loss payee and as an additional named insured on such certificates of insurance. Lessee agrees to abide by the provisions of said policies and to make a written report to Lessor and the insurer within 48 hours of Lessee's knowledge of any accident or occurrence involving Equipment. Lessee's agents and employees shall cooperate fully with Lessor and Lessee's insurer in the investigation, prosecution and/or defense of any claim or suit and shall do nothing to impair or invalidate any applicable insurance coverage. Lessee's insurance shall also insure except as may be otherwise provided herein, against all risks of direct physical loss or damage to the Equipment, while in transit or otherwise within the United States of America and Canada, and shall also include general average and salvage charges on Equipment while waterborne. In the event that Lessee receives any insurance proceeds with respect to any insurance policy required by this Paragraph 5, Lessee shall pay or apply such proceeds as directed by Lessor, Lessee shall also maintain worker's compensation insurance to extent required by law. Lessee agrees that credit for downtime is at Lessor's discretion only.

6. INDEMNITY - Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents and employees against all loss, liability and expense, including reasonable attorney's fees, incurred by any such individual or entity by reason of bodily injury including death, and property damage, sustained by any person or persons, including but not limited to the officers, agents and employees of Lessee, as a result of the maintenance, use, operation, storage, erections, mantling, dismantling, servicing, transportation, to the extent not caused by Lessor's negligence or willful misconduct, or a pre-existing condition of the equipment. Further, Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents, and employees against all loss, liability and equipment costs, including reasonable outside attorneys' fees, incurred by any such individual or entity by reason of any damage sustained by any person or persons, including but not limited to the officers, agents, and employees of Lessee, as a result of any pollution liability claims or environmental impairment claim made as a result of the Lessee generating, storing, disposing of any hazardous substances, hazardous material, toxic substances, or any additional substances or materials commonly described as hazardous substances. The provisions of this Paragraph 6 shall continue in full force and effect notwithstanding the expiration of termination of this Agreement for any reason.

7. COMPLIANCE WITH LAW - Lessee shall, at its expense, comply with all state, federal and local laws and regulations affecting Equipment and its use, erection, design and transportation, including licensing and building code requirements and shall defend, indemnify and hold Lessor, its subsidiaries and related and affiliated companies, their officers, agents and employees harmless from all loss, liability and expense, including reasonable attorney's fees, harmless from all loss, liability and expense resulting from actual or asserted violations of any such laws.

8. VENUE AND CHOICE OF LAW; WAIVER OF JURY TRIAL This Agreement shall be governed by and construed and enforced in accordance with, the laws of the State of Florida, excluding laws of Florida relating to the resolution of conflict of laws of different jurisdictions. The forum selected for any proceeding or suit related to this Agreement shall be in the Circuit Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, and the parties consent to this Court's personal jurisdiction over them or if the State Court does not have subject matter jurisdiction, then in the District Court of the United States for the Middle District of Florida, Tampa Division, to which the parties also consent to personal jurisdiction. Each party hereby waives any defense whether asserted by motion or pleading, that Hillsborough County, Florida, is an improper or inconvenient venue. This is intended to be a mandatory and not a permissive forum selection provision.

9. RENTAL - This Agreement is an agreement of rental only and Lessee shall not be deemed an agent or employee of Lessor for any purpose. Lessee shall not suffer any liens or encumbrances to attach to Equipment and shall defend, indemnify and hold Lessor harmless from all loss, liability and expense by reason thereof, including reasonable attorney's fees incurred by Lessor. Lessee shall not sub-let Equipment or assign this Agreement. The use of Equipment by others than Lessee or its employees shall be at Lessee's sole risk and subject to this Agreement. Lessor shall not be liable for any loss of or damage to any property left, stored, moved by or transported by Lessee or any other person in or upon Equipment either before or after the return thereof to Lessor whether or not caused by Lessor, and Lessee agrees to hold Lessor harmless from any such loss or damage including Lessor's reasonable attorney's fees. Lessee hereby assumes all risk of such loss or damage and waives all claims against Lessor by reason thereof and agrees to indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, and all of its agents, officers and employees from and against all loss, liability, claim, action, or expense including reasonable attorney's fees arising out of such loss or damage.

10. LIABILITY - The liability of Lessor for delay or failure to pick up Equipment or for failure of Equipment to perform shall not exceed the rental charges herein provided for. Lessee shall be responsible for making arrangements for return of Equipment. This Agreement does not terminate until Equipment is received on Lessor's yard and all obligations under this agreement have been satisfied except as may otherwise be provided herein.

11. DEFAULT - All delinquent installments of rent shall bear interest at one-and-a-half percent (1 1/2%) per month if not prohibited by law or at the highest lawful rate. In the event of default or breach of this Agreement by Lessee, or if Lessee, Lessor may enter premises where Equipment is located on reasonable written notice to, and in coordination with, licensee and render inoperative or remove Equipment with process of law and may terminate this Agreement without prejudice to any remedies or claims which Lessor might otherwise have for arrears of rent, expense of retaking, court costs and reasonable outside attorney's fee. Lessee shall remain liable for the full value of the Equipment or for any loss or damage to the Equipment, notwithstanding any termination of this Agreement. Upon the occurrence of any event of default, Lessee agrees to pay all actual costs and expenses which may by incurred by Lessor, including a reasonable outside attorney's fee, to enforce any right provided herein or collect any sums due, including any appeal or bankruptcy proceeding

12. DICLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITY - Equipment described herein as new is leased subject to such warranties as are made in writing by the manufacturer thereof. Lessor will cooperate with Lessee in obtaining adjustment from manufacturer for breach of any such manufacturer's warranty; any expense to be for Lessee's account. In the event it is found that there are defective parts within such period as the appropriate manufacturer's agreement to replace defective parts is applicable, Lessor will furnish at Lessor's repair facilities during regular working hours, such labor as is required for replacement or repair of defective parts covered by manufacturer's warranty. Cost of necessary transportation to and/or from Lessor's repair facility shall be borne solely and exclusively by Lessee. EXCEPT FOR THIS AGREED OBLIGATION TO FURNISH LABOR TO MAKE REPLACEMENT OR REPAIR OF DEFECTIVE PARTS COVERED BY MANUFACTURER'S WARRANTY WITHIN THE MANUFACTURER'S WARRANTY PERIOD, LESSOR SHALL NOT BE LIABLE FOR DEFECTS IN OR FOR ANY DAMAGES OR LOSS TO THE EQUIPMENT LEASED NOR CAUSED BY THE EQUIPMENT LEASE, AND UNDER NO CIRCUMSTANCES SHALL LESSOR OR MANUFACTURER BE LIABLE AND HEREBY SPECIFICALLY DISCLAIMS RESPONSIBILITY FOR ANY INDIRECT SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE LESSEE OR TO ANY THIRD PARTY. THE FOREGOING UNDERTAKING WITH RESPECT TO NEW EQUIPMENT IS IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; FURTHER LESSOR MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO USED EQUIPMENT AND LESSEE TAKES AND RENTS ANY USED EQUIPMENT "AS IS" AND WITH ALL FAULTS OR DEFECTS UNLESS A MODIFICATION IS ENDORSED HEREIN OR CONTAINED IN A SEPARATE WRITING SIGNED BY AN OFFICER OF LESSOR. Lessor warrants that it (1) owns/controls the equipment and (2) has the authority to enter this agreement and grant rights granted hereunder.

13. TITLES, HEADINGS AND CAPTIONS - All titles, headings and captions used in this Agreement have been intended for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.

14. ENTIRE AGREEMENT - This Agreement expresses the entire agreement between the Lessor and Lessee. No change, modification or alteration of the terms, conditions and provisions herein will be effective against Lessor unless the same are in writing and signed by a duly authorized officer of Lessor. Lessee's execution of this agreement and/or acceptance of delivery of any part of equipment to be furnished hereunder shall constitute Lessee's acceptance of the terms, conditions and provisions of this agreement and the exclusion of any terms, conditions and provisions otherwise stated by Lessee or contained in Lessee's purchase documents which conflict with or limit the terms, conditions and provisions contained herein. The paragraph headings contained in this Agreement are for convenience only and shall not be used to expand or limit the express terms, conditions and provisions herein.

15. NO WAIVER - Lessor shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is specific and in writing. No delay or omission by Lessor in exercising any of its rights or remedies hereunder shall constitute a waiver thereof, or shall constitute any further waiver thereafter. All rights and remedies of a party are cumulative and concurrent and the exercise of one right or remedy shall not be deemed to be a waiver or release of any other right or remedy.

RDK ASSETS, INC. dba RDK TRUCK SALES LOSS AND DAMAGE PROVISIONS

1. LESSORS GENERAL RESPONSIBILITY - Under the RDK Assets, INC. dba RDK Truck Sales Agreement ("Agreement") the Lessee renting the Equipment is responsible to RDK Assets, INC. dba RDK Truck Sales for any loss or dam- age to the Equipment and/or its return in the same condition in which received, except for ordinary wear and tear. Such responsibility is limited to the full value of the Equipment at the time it is lost or damaged, less its salvage value, plus an administrative fee and RDK Assets, INC. dba RDK Truck Sales related expenses, including loss of use, appraisal fees, recovery costs and reasonable attorney's fee. In the event the Equipment is damaged in a manner for which the Lessee is responsible, such Equipment may be repaired by Lessor or a repairer of Lessor's then prevailing hourly rate for labor posted at the Lessor's branch where the Equipment is be repaired, or the repairer's hourly rate for the labor charged to repairer for such repairs, as the case may be. Parts will be charged at Lessor's list price. Lessee is also responsible for the expenses relating to such loss or damage to the Equipment as specified in the Agreement.

2. SUBROGATION - In the event of any loss or damage to the Equipment, Lessor will subrogate with respect to any right of the Lessee to recover against any person, firm or corporation. Lessee will execute and deliver whatever instruments and papers are required and do whatever else is necessary to secure such rights. Lessee will cooperate fully with Lessor and/or its insurers in the prosecution of those rights and will neither take nor permit nor suffer any action to prejudice Lessor's right with respect thereto.

Lessor agrees that Lessor's rights and remedies in the event of any breach of this agreement shall be limited to Lessor's remedy at law for monetary damages, if any, and Lessor shall not be entitled to seek injunctive or other equitable relief or to enjoin or restrain the production, distribution, exhibition, advertising or any other means of exploitation of the production hereunder or any subsidiary, derivative or ancillary rights in connection therewith, or with the advertising, publicizing, exhibiting or exploitation of said photography and/or said sound recordings or any of Lessee's rights hereunder.

Stock # 108554 **Invoice #** _____

RDK ASSETS, INC. dba RDK TRUCK SALES

3214 Adamo Dr • Tampa, Florida 33605 • (813) 241-0711 • FAX (813) 241-0414

Lessee Information / *Shipping Address*

Customer # 11872 — SAME

Customer Name CITY OF WINTER HAVEN

2501 MOTOR POOL RD

WINTER HAVEN, FL 33881

Phone # 863-605-8541 P.O. #/Job # _____ Ordered By Brittany Hart

Project _____ Job Location _____ Salesman Shawn Gonser

Delivered By: ☒ RKTR ☐ Lessee ☐ Other _____ Date/Time Shipped 05/02/25

Returned By: ☐ RKTR ☒ Lessee ☐ Other _____ Date/Time Shipped _____

Serial Number	Tag	Equipment Description	Rental Term Monthly	Rate	Total
1CYAADAC7R1002223	DD56FJ	2024 Battle Motors Side Loader	1	$ 8,500.00	$ 8,500.00

Note: Rental Agreement is valid for a period of 1 months and cannot be canceled by returning equipment to RDK Assets. INC, dba RDK Truck Sales or an authorized rental location. Customer is responsible for ALL tire repairs, fuel and damages. See reverse side (Sec. 2) for allowance of hours.

Rental Starts 05/02/25 Mileage Out 8603 Hours Out 1398 Mileage In _____ Hours In _____

rental rate is $ $ 8,500.00 **If changes occur, applicable rental charges will result.**

No more than 60 hours per work week.
Customer is responsible for permits, licensing and repairs.
Oil & filters must be changed every 200 hours.
Customer is responsible for IFTA mileage tracking and reporting. Customer is responsible for displaying name and DOT Number on cab.
All reimbursable repairs need prior approval from RDK Assets, INC.

Minimum Rental Contract: Month to Month

Replacement Value of Vehicle: $354,900.00

Tax Rate 0.00%

Rental Amount	$ 8,500.00
Sales Tax	$ 0.00
Transportation	
Total	$ 8,500.00
Security Deposit* (Cash/Check)	$ 0.00
Total Due	$ 8,500.00

(*Security Deposit, net of any physical damage assessment, will be returned upon complete vehicle inspection by RDK Assets, INC, dba RDK Truck Sales)

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Equipment shall be operated only by a qualified operator, licensed where required by the law, who is either Lessee or an authorized operator as set forth in this Agreement. Lessee is liable for all damage caused by striking overhead objects, and if equipment is used without Lessor's permission or in violation of this Agreement, or is damaged as a result of conditions enumerated on Page Two (reverse side), or conditions enumerated in the Loss and Damage Provisions, Lessee shall be liable for all damages. Lessee represents that the Equipment herein has been fully inspected by it and that same is in good condition.

PHYSICAL DAMAGE INSURANCE, LIABILITY, WORKMANS COMPENSATION, PROPERTY DAMAGE

Insurer _____ Policy No. _____ Exp. Date _____

Minimum Property Damage Coverage $_____ Date Insurance Certificate Received _____

BY EXECUTION OF THIS RENTAL AGREEMENT, LESSEE ACKNOWLEDGES THAT THE EQUIPMENT DESCRIBED HEREIN IS RENTED TO AND IN ACCORDANCE WITH THE TERMS, CONDITIONS AND PROVISIONS SET FORTH ABOVE (PAGE ONE) AND ON THE REVERSE SIDE OF THIS AGREEMENT (PAGE TWO) AND LESSEEREPRESENTS THAT LESSEE HAS READ AND AGREES TO ALL TERMS, CONDITIONS AND PROVISIONS OF THIS AGREEMENT. A FACSIMILE OF THIS AGREEMENT, OR ANY PART OF IT, SHALL BE ENFORCABLE AS AN ORIGINAL AND THIS AGREEMENT MAY BE EXECUTED AND ENFORECED IN COUNTERPARTS.

			Date
Lessee Signature _____	Prepared By:	Jasmine Garnicki	5/1/25
Lessee Name (please print) _____	Reviewed By:	Raquel Cordova	5/2/25
Drivers License # _____ State_____	Credit Approved By:		
Company Name_____	Security Deposit Received:		
Date_____	Security Deposit Returned:		

RKTR 3/09/2023

RDK ASSETS, INC. dba RDK TRUCK SALES

TERMS AND CONDITIONS

RDK Assets, INC. dba RDK Truck Sales, (Lessor), hereby rents to Lessee and Lessee hereby accepts from Lessor, the Equipment described on Page One ("Equipment") subject to all terms, conditions and provisions of this Agreement as set forth on Pages One and Two.

1. RETURN OF EQUIPMENT - Equipment is and shall remain the property of Lessor, and is in good repair and mechanical condition. Except as otherwise provided herein. Lessee shall return Equipment in the same condition as received, ordinary wear and tear excepted to the place from which rented on the date specified or sooner if demanded by Lessor. Lessee agrees that Lessor may apply any security deposit posted by Lessee towards Lessee's obligation under this Paragraph 1.

2. CHARGES - Lessee shall be liable for and shall promptly pay when due at the Lessor's office designated herein, all rental and other charges set forth herein, including but not limited to time, mileage, service, minimum 50% grade wear on tire, delivery, pick-up and other charges (including cost of fuel supplied by Lessor) in accordance with this Agreement or, if not stated herein, in effect at the location at which the rental is made; and, shall pay and/or reimburse Lessor for amounts equal to any sales tax, use tax, personal property tax, licenses, registration or fees levied or based upon the rentals of the Equipment or the use or the operation thereof. Rental payment is due at the beginning of each rental term. The daily, weekly and monthly rental shall entitle Lessee to a maximum of one-shift use (8 hours per day, 60 hours per week, 260 hours per month). Double-shift use will incur a charge of one-and-a-half (1 1/2) times the rental rate and triple-shift use will incur a charge of two (2) times the rental rate. Lessor shall have a lien as allowed by law for charges incurred hereunder upon premises and improvements upon which Equipment is employed. Rentals are F.O.B. the location at which this transaction was made. Shipping charges from such location to destination and return and all loading, unloading, assembling and dismantling shall be paid by Lessee.

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5. INSURANCE - Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy of public liability and property damage insurance with bodily injury and death liability limits of at least $3,000,000 for each person in each accident and property damage liability limits of at least $1,000,000 on a primary and not excess or contributory basis against its liability for damages sustained by any person or persons including but not limited to employees of Lessee, as a result of the maintenance, use, operation, storage, erection, dismantling, servicing or transportation of Equipment. Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy covering any and all physical damage to the Equipment in the' amount referenced on the reverse side of this Agreement. Lessee shall, on demand, furnish Lessor a certificate of insurance with respect to each policy required by this Paragraph 5, which certificates shall provide that they may not be canceled or materially modified except on thirty (30) days prior written notice to Lessor. Further, Lessee shall ensure that the certificates of insurance referenced herein shall name the Lessor as the loss payee and as an additional named insured on such certificates of insurance. Lessee agrees to abide by the provisions of said policies and to make a written report to Lessor and the insurer within 48 hours of Lessee's knowledge of any accident or occurrence involving Equipment. Lessee's agents and employees shall cooperate fully with Lessor and Lessee's insurer in the investigation, prosecution and/or defense of any claim or suit and shall do nothing to impair or invalidate any applicable insurance coverage. Lessee's insurance shall also insure except as may be otherwise provided herein, against all risks of direct physical loss or damage to the Equipment, while in transit or otherwise within the United States of America and Canada, and shall also include general average and salvage charges on Equipment while waterborne. In the event that Lessee receives any insurance proceeds with respect to any insurance policy required by this Paragraph 5, Lessee shall pay or apply such proceeds as directed by Lessor, Lessee shall also maintain worker's compensation insurance to extent required by law. Lessee agrees that credit for downtime is at Lessor's discretion only.

6. INDEMNITY - Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents and employees against all loss, liability and expense, including reasonable attorney's fees, incurred by any such individual or entity by reason of bodily injury including death, and property damage, sustained by any person or persons, including but not limited to the officers, agents and employees of Lessee, as a result of the maintenance, use, operation, storage, erections, mantling, dismantling, servicing, transportation, to the extent not caused by Lessor's negligence or willful misconduct, or a pre-existing condition of the equipment. Further, Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents, and employees against all loss, liability and equipment costs, including reasonable outside attorneys' fees, incurred by any such individual or entity by reason of any damage sustained by any person or persons, including but not limited to the officers, agents, and employees of Lessee, as a result of any pollution liability claims or environmental impairment claim made as a result of the Lessee generating, storing, disposing of any hazardous substances, hazardous material, toxic substances, or any additional substances or materials commonly described as hazardous substances. The provisions of this Paragraph 6 shall continue in full force and effect notwithstanding the expiration of termination of this Agreement for any reason.

7. COMPLIANCE WITH LAW - Lessee shall, at its expense, comply with all state, federal and local laws and regulations affecting Equipment and its use, erection, design and transportation, including licensing and building code requirements and shall defend, indemnify and hold Lessor, its subsidiaries and related and affiliated companies, their officers, agents and employees harmless from all loss, liability and expense, including reasonable attorney's fees, harmless from all loss, liability and expense resulting from actual or asserted violations of any such laws.

8. VENUE AND CHOICE OF LAW; WAIVER OF JURY TRIAL This Agreement shall be governed by and construed and enforced in accordance with, the laws of the State of Florida, excluding laws of Florida relating to the resolution of conflict of laws of different jurisdictions. The forum selected for any proceeding or suit related to this Agreement shall be in the Circuit Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, and the parties consent to this Court's personal jurisdiction over them or if the State Court does not have subject matter jurisdiction, then in the District Court of the United States for the Middle District of Florida, Tampa Division, to which the parties also consent to personal jurisdiction. Each party hereby waives any defense whether asserted by motion or pleading, that Hillsborough County, Florida, is an improper or inconvenient venue. This is intended to be a mandatory and not a permissive forum selection provision.

9. RENTAL - This Agreement is an agreement of rental only and Lessee shall not be deemed an agent or employee of Lessor for any purpose. Lessee shall not suffer any liens or encumbrances to attach to Equipment and shall defend, indemnify and hold Lessor harmless from all loss, liability and expense by reason thereof, including reasonable attorney's fees incurred by Lessor. Lessee shall not sub-let Equipment or assign this Agreement. The use of Equipment by others than Lessee or its employees shall be at Lessee's sole risk and subject to this Agreement. Lessor shall not be liable for any loss of or damage to any property left, stored, moved by or transported by Lessee or any other person in or upon Equipment either before or after the return thereof to Lessor whether or not caused by Lessor, and Lessee agrees to hold Lessor harmless from any such loss or damage including Lessor's reasonable attorney's fees. Lessee hereby assumes all risk of such loss or damage and waives all claims against Lessor by reason thereof and agrees to indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, and all of its agents, officers and employees from and against all loss, liability, claim, action, or expense including reasonable attorney's fees arising out of such loss or damage.

10. LIABILITY - The liability of Lessor for delay or failure to pick up Equipment or for failure of Equipment to perform shall not exceed the rental charges herein provided for. Lessee shall be responsible for making arrangements for return of Equipment. This Agreement does not terminate until Equipment is received on Lessor's yard and all obligations under this agreement have been satisfied except as may otherwise be provided herein.

11. DEFAULT - All delinquent installments of rent shall bear interest at one-and-a-half percent (1 1/2%) per month if not prohibited by law or at the highest lawful rate. In the event of default or breach of this Agreement by Lessee, or if Lessee, Lessor may enter premises where Equipment is located on reasonable written notice to, and in coordination with, licensee and render inoperative or remove Equipment with process of law and may terminate this Agreement without prejudice to any remedies or claims which Lessor might otherwise have for arrears of rent, expense of retaking, court costs and reasonable outside attorney's fee. Lessee shall remain liable for the full value of the Equipment or for any loss or damage to the Equipment, notwithstanding any termination of this Agreement. Upon the occurrence of any event of default, Lessee agrees to pay all actual costs and expenses which may by incurred by Lessor, including a reasonable outside attorney's fee, to enforce any right provided herein or collect any sums due, including any appeal or bankruptcy proceeding

12. DICLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITY - Equipment described herein as new is leased subject to such warranties as are made in writing by the manufacturer thereof. Lessor will cooperate with Lessee in obtaining adjustment from manufacturer for breach of any such manufacturer's warranty; any expense to be for Lessee's account. In the event it is found that there are defective parts within such period as the appropriate manufacturer's agreement to replace defective parts is applicable, Lessor will furnish at Lessor's repair facilities during regular working hours, such labor as is required for replacement or repair of defective parts covered by manufacturer's warranty. Cost of necessary transportation to and/or from Lessor's repair facility shall be borne solely and exclusively by Lessee. EXCEPT FOR THIS AGREED OBLIGATION TO FURNISH LABOR TO MAKE REPLACEMENT OR REPAIR OF DEFECTIVE PARTS COVERED BY MANUFACTURER'S WARRANTY WITHIN THE MANUFACTURER'S WARRANTY PERIOD, LESSOR SHALL NOT BE LIABLE FOR DEFECTS IN OR FOR ANY DAMAGES OR LOSS TO THE EQUIPMENT LEASED NOR CAUSED BY THE EQUIPMENT LEASE, AND UNDER NO CIRCUMSTANCES SHALL LESSOR OR MANUFACTURER BE LIABLE AND HEREBY SPECIFICALLY DISCLAIMS RESPONSIBILITY FOR ANY INDIRECT SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE LESSEE OR TO ANY THIRD PARTY. THE FOREGOING UNDERTAKING WITH RESPECT TO NEW EQUIPMENT IS IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; FURTHER LESSOR MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO USED EQUIPMENT AND LESSEE TAKES AND RENTS ANY USED EQUIPMENT "AS IS" AND WITH ALL FAULTS OR DEFECTS UNLESS A MODIFICATION IS ENDORSED HEREIN OR CONTAINED IN A SEPARATE WRITING SIGNED BY AN OFFICER OF LESSOR. Lessor warrants that it (1) owns/controls the equipment and (2) has the authority to enter this agreement and grant rights granted hereunder.

13. TITLES, HEADINGS AND CAPTIONS - All titles, headings and captions used in this Agreement have been intended for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.

14. ENTIRE AGREEMENT - This Agreement expresses the entire agreement between the Lessor and Lessee. No change, modification or alteration of the terms, conditions and provisions herein will be effective against Lessor unless the same are in writing and signed by a duly authorized officer of Lessor. Lessee's execution of this agreement and/or acceptance of delivery of any part of equipment to be furnished hereunder shall constitute Lessee's acceptance of the terms, conditions and provisions of this agreement and the exclusion of any terms, conditions and provisions otherwise stated by Lessee or contained in Lessee's purchase documents which conflict with or limit the terms, conditions and provisions contained herein. The paragraph headings contained in this Agreement are for convenience only and shall not be used to expand or limit the express terms, conditions and provisions herein.

15. NO WAIVER - Lessor shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is specific and in writing. No delay or omission by Lessor in exercising any of its rights or remedies hereunder shall constitute a waiver thereof, or shall constitute any further waiver thereafter. All rights and remedies of a party are cumulative and concurrent and the exercise of one right or remedy shall not be deemed to be a waiver or release of any other right or remedy.

RDK ASSETS, INC. dba RDK TRUCK SALES LOSS AND DAMAGE PROVISIONS

1. LESSORS GENERAL RESPONSIBILITY - Under the RDK Assets, INC. dba RDK Truck Sales Agreement ("Agreement") the Lessee renting the Equipment is responsible to RDK Assets, INC. dba RDK Truck Sales for any loss or dam- age to the Equipment and/or its return in the same condition in which received, except for ordinary wear and tear. Such responsibility is limited to the full value of the Equipment at the time it is lost or damaged, less its salvage value, plus an administrative fee and RDK Assets, INC. dba RDK Truck Sales related expenses, including loss of use, appraisal fees, recovery costs and reasonable attorney's fee. In the event the Equipment is damaged in a manner for which the Lessee is responsible, such Equipment may be repaired by Lessor or a repairer of Lessor's then prevailing hourly rate for labor posted at the Lessor's branch where the Equipment is be repaired, or the repairer's hourly rate for the labor charged to repairer for such repairs, as the case may be. Parts will be charged at Lessor's list price. Lessee is also responsible for the expenses relating to such loss or damage to the Equipment as specified in the Agreement.

2. SUBROGATION - In the event of any loss or damage to the Equipment, Lessor will subrogate with respect to any right of the Lessee to recover against any person, firm or corporation. Lessee will execute and deliver whatever instruments and papers are required and do whatever else is necessary to secure such rights. Lessee will cooperate fully with Lessor and/or its insurers in the prosecution of those rights and will neither take nor permit nor suffer any action to prejudice Lessor's right with respect thereto.

Lessor agrees that Lessor's rights and remedies in the event of any breach of this agreement shall be limited to Lessor's remedy at law for monetary damages, if any, and Lessor shall not be entitled to seek injunctive or other equitable relief or to enjoin or restrain the production, distribution, exhibition, advertising or any other means of exploitation of the production hereunder or any subsidiary, derivative or ancillary rights in connection therewith, or with the advertising, publicizing, exhibiting or exploitation of said photography and/or said sound recordings or any of Lessee's rights hereunder.

Stock # 108554 **Invoice #** _____

RDK ASSETS, INC. dba RDK TRUCK SALES

3214 Adamo Dr • Tampa, Florida 33605 • (813) 241-0711 • FAX (813) 241-0414

Lessee Information / *Shipping Address*

Customer # 11872 — SAME

Customer Name CITY OF WINTER HAVEN

2501 MOTOR POOL RD

WINTER HAVEN, FL 33881

Phone # 863-605-8541 P.O. #/Job # _____ Ordered By Brittany Hart

Project _____ Job Location _____ Salesman Shawn Gonser

Delivered By: ☒ RKTR ☐ Lessee ☐ Other _____ Date/Time Shipped 05/02/25

Returned By: ☐ RKTR ☒ Lessee ☐ Other _____ Date/Time Shipped _____

Serial Number	Tag	Equipment Description	Rental Term Monthly	Rate	Total
1CYAADAC7R1002223	DD56FJ	2024 Battle Motors Side Loader	1	$ 8,500.00	$ 8,500.00

Note: Rental Agreement is valid for a period of 1 months and cannot be canceled by returning equipment to RDK Assets. INC, dba RDK Truck Sales or an authorized rental location. Customer is responsible for ALL tire repairs, fuel and damages. See reverse side (Sec. 2) for allowance of hours.

Rental Starts 05/02/25 Mileage Out 8603 Hours Out 1398 Mileage In _____ Hours In _____

rental rate is $ $ 8,500.00 **If changes occur, applicable rental charges will result.**

No more than 60 hours per work week.
Customer is responsible for permits, licensing and repairs.
Oil & filters must be changed every 200 hours.
Customer is responsible for IFTA mileage tracking and reporting. Customer is responsible for displaying name and DOT Number on cab.
All reimbursable repairs need prior approval from RDK Assets, INC.

Minimum Rental Contract: Month to Month

Replacement Value of Vehicle: $354,900.00

Tax Rate 0.00%

Rental Amount	$ 8,500.00
Sales Tax	$ 0.00
Transportation	
Total	$ 8,500.00
Security Deposit* (Cash/Check)	$ 0.00
Total Due	$ 8,500.00

(*Security Deposit, net of any physical damage assessment, will be returned upon complete vehicle inspection by RDK Assets, INC, dba RDK Truck Sales)

LESSEE MUST CHECK ENGINE OIL, WATER AND FUEL DAILY. LESSEE MUST ADVISE LEESOR WHEN READY FOR PICK-UP. LESSEE AUTHORIZES THE DELETION OF ANY SAFETY EQUIPMENT AND ACCEPTS ALL LIABILITY FOR INJURY OR LOSS INCURRED. LESSEE IS RESPONSIBLE FOR ALL TIRES (to be returned with a minimum of 50% tread), MAINTENANCE, FUEL, MISSING PARTS, AND ALL DAMAGE OTHER THAN NORMAL WEAR AND TEAR.

Equipment shall be operated only by a qualified operator, licensed where required by the law, who is either Lessee or an authorized operator as set forth in this Agreement. Lessee is liable for all damage caused by striking overhead objects, and if equipment is used without Lessor's permission or in violation of this Agreement, or is damaged as a result of conditions enumerated on Page Two (reverse side), or conditions enumerated in the Loss and Damage Provisions, Lessee shall be liable for all damages. Lessee represents that the Equipment herein has been fully inspected by it and that same is in good condition.

PHYSICAL DAMAGE INSURANCE, LIABILITY, WORKMANS COMPENSATION, PROPERTY DAMAGE

Insurer _____ Policy No. _____ Exp. Date _____

Minimum Property Damage Coverage $_____ Date Insurance Certificate Received _____

BY EXECUTION OF THIS RENTAL AGREEMENT, LESSEE ACKNOWLEDGES THAT THE EQUIPMENT DESCRIBED HEREIN IS RENTED TO AND IN ACCORDANCE WITH THE TERMS, CONDITIONS AND PROVISIONS SET FORTH ABOVE (PAGE ONE) AND ON THE REVERSE SIDE OF THIS AGREEMENT (PAGE TWO) AND LESSEEREPRESENTS THAT LESSEE HAS READ AND AGREES TO ALL TERMS, CONDITIONS AND PROVISIONS OF THIS AGREEMENT. A FACSIMILE OF THIS AGREEMENT, OR ANY PART OF IT, SHALL BE ENFORCABLE AS AN ORIGINAL AND THIS AGREEMENT MAY BE EXECUTED AND ENFORECED IN COUNTERPARTS.

			Date
Lessee Signature _____	Prepared By:	Jasmine Garnicki	5/1/25
Lessee Name (please print) _____	Reviewed By:	Raquel Cordova	5/2/25
Drivers License # _____ State_____	Credit Approved By:		
Company Name_____	Security Deposit Received:		
Date_____	Security Deposit Returned:		

RKTR 3/09/2023

RDK ASSETS, INC. dba RDK TRUCK SALES

TERMS AND CONDITIONS

RDK Assets, INC. dba RDK Truck Sales, (Lessor), hereby rents to Lessee and Lessee hereby accepts from Lessor, the Equipment described on Page One ("Equipment") subject to all terms, conditions and provisions of this Agreement as set forth on Pages One and Two.

1. RETURN OF EQUIPMENT - Equipment is and shall remain the property of Lessor, and is in good repair and mechanical condition. Except as otherwise provided herein. Lessee shall return Equipment in the same condition as received, ordinary wear and tear excepted to the place from which rented on the date specified or sooner if demanded by Lessor. Lessee agrees that Lessor may apply any security deposit posted by Lessee towards Lessee's obligation under this Paragraph 1.

2. CHARGES - Lessee shall be liable for and shall promptly pay when due at the Lessor's office designated herein, all rental and other charges set forth herein, including but not limited to time, mileage, service, minimum 50% grade wear on tire, delivery, pick-up and other charges (including cost of fuel supplied by Lessor) in accordance with this Agreement or, if not stated herein, in effect at the location at which the rental is made; and, shall pay and/or reimburse Lessor for amounts equal to any sales tax, use tax, personal property tax, licenses, registration or fees levied or based upon the rentals of the Equipment or the use or the operation thereof. Rental payment is due at the beginning of each rental term. The daily, weekly and monthly rental shall entitle Lessee to a maximum of one-shift use (8 hours per day, 60 hours per week, 260 hours per month). Double-shift use will incur a charge of one-and-a-half (1 1/2) times the rental rate and triple-shift use will incur a charge of two (2) times the rental rate. Lessor shall have a lien as allowed by law for charges incurred hereunder upon premises and improvements upon which Equipment is employed. Rentals are F.O.B. the location at which this transaction was made. Shipping charges from such location to destination and return and all loading, unloading, assembling and dismantling shall be paid by Lessee.

3. USE OF EQUIPMENT - Equipment shall be used solely in Lessee's business and kept only at its place of business or job site (except that Equipment may be moved in the normal course of Lessee's business), and shall not be removed without prior written consent of Lessor. Lessee shall notify Lessor, prior to moving equipment from its place of business or the job site identified on Page One, of the location and project to which the equipment is relocated and the date(s) each piece of equipment is removed or placed on any job site. Lessee shall promptly respond to all requests by Lessor concerning the location of all equipment and any information requested by Lessor concerning the job site (including, but not limited to, the identity of the property owner, general contractor, surety, if any, and legal description of premises). Lessee agrees that Lessor may inspect the equipment at reasonable times whether at Lessee's place of business or a job site on reasonable written notice to, and in coordination with, licensee. Equipment shall be used only within its rated capacity by safe, careful, competent and qualified personnel. Lessee shall notify lessor immediately of any accident or occurrence, disablement or failure involving Equipment, and promptly furnish Lessor in writing all information required in connection therewith. Equipment shall not be used, operated, or driven: (A) to carry persons other than the driver or helpers; (B) to transport property for hire, unless all permits and licenses have been obtained by Lessee which are the sole responsibility of Lessee; (C) in violation of any law or ordinance; (D) by any person in violation of law as to age; (E) in any speed contests; and (F) by any person other than (1) Lessee; or (2) any of the following persons provided that such person is a qualified licensed driver and provided Lessee's permission is first obtained: (a) a member of Lessee's family, (b) Lessee's employer or (c) any employee of Lessee in the ordinary course of such employee's regular employment. If Equipment is used in violation of this Paragraph, or is obtained from Lessor by fraud or misrepresentation, or is used in furtherance of any illegal purpose, all use of Equipment is and shall be deemed used without Lessor's permission.

4. SERVICE - Lessee shall perform and pay for all normal, periodic and other basic service, adjustments and lubrication of Equipment, including but not limited to; checking of Equipment before each shift; and supplying fuel, oil and water; and checking cooling system (engine only); and, checking tire pressures and battery fluid and charge levels at least weekly. If Equipment fails to operate properly or needs repair, Lessee shall immediately cease using and notify Lessor forth-with, Lessee shall not make any alterations, additions or improvements to the Equipment without the prior written consent of Lessor.

5. INSURANCE - Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy of public liability and property damage insurance with bodily injury and death liability limits of at least $3,000,000 for each person in each accident and property damage liability limits of at least $1,000,000 on a primary and not excess or contributory basis against its liability for damages sustained by any person or persons including but not limited to employees of Lessee, as a result of the maintenance, use, operation, storage, erection, dismantling, servicing or transportation of Equipment. Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy covering any and all physical damage to the Equipment in the' amount referenced on the reverse side of this Agreement. Lessee shall, on demand, furnish Lessor a certificate of insurance with respect to each policy required by this Paragraph 5, which certificates shall provide that they may not be canceled or materially modified except on thirty (30) days prior written notice to Lessor. Further, Lessee shall ensure that the certificates of insurance referenced herein shall name the Lessor as the loss payee and as an additional named insured on such certificates of insurance. Lessee agrees to abide by the provisions of said policies and to make a written report to Lessor and the insurer within 48 hours of Lessee's knowledge of any accident or occurrence involving Equipment. Lessee's agents and employees shall cooperate fully with Lessor and Lessee's insurer in the investigation, prosecution and/or defense of any claim or suit and shall do nothing to impair or invalidate any applicable insurance coverage. Lessee's insurance shall also insure except as may be otherwise provided herein, against all risks of direct physical loss or damage to the Equipment, while in transit or otherwise within the United States of America and Canada, and shall also include general average and salvage charges on Equipment while waterborne. In the event that Lessee receives any insurance proceeds with respect to any insurance policy required by this Paragraph 5, Lessee shall pay or apply such proceeds as directed by Lessor, Lessee shall also maintain worker's compensation insurance to extent required by law. Lessee agrees that credit for downtime is at Lessor's discretion only.

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2. SUBROGATION - In the event of any loss or damage to the Equipment, Lessor will subrogate with respect to any right of the Lessee to recover against any person, firm or corporation. Lessee will execute and deliver whatever instruments and papers are required and do whatever else is necessary to secure such rights. Lessee will cooperate fully with Lessor and/or its insurers in the prosecution of those rights and will neither take nor permit nor suffer any action to prejudice Lessor's right with respect thereto.

Lessor agrees that Lessor's rights and remedies in the event of any breach of this agreement shall be limited to Lessor's remedy at law for monetary damages, if any, and Lessor shall not be entitled to seek injunctive or other equitable relief or to enjoin or restrain the production, distribution, exhibition, advertising or any other means of exploitation of the production hereunder or any subsidiary, derivative or ancillary rights in connection therewith, or with the advertising, publicizing, exhibiting or exploitation of said photography and/or said sound recordings or any of Lessee's rights hereunder.

Stock # 108554 **Invoice #** _____

RDK ASSETS, INC. dba RDK TRUCK SALES

3214 Adamo Dr • Tampa, Florida 33605 • (813) 241-0711 • FAX (813) 241-0414

Lessee Information		*Shipping Address*
Customer #	11872	SAME
Customer Name	CITY OF WINTER HAVEN	
	2501 MOTOR POOL RD	
	WINTER HAVEN, FL 33881	

Phone # 863-605-8541 P.O. #/Job # _____ Ordered By Brittany Hart

Project _____ Job Location _____ Salesman Shawn Gonser

Delivered By: ☒ RKTR ☐ Lessee ☐ Other _____ Date/Time Shipped 05/02/25

Returned By: ☐ RKTR ☒ Lessee ☐ Other _____ Date/Time Shipped _____

Serial Number	Tag	Equipment Description	Rental Term Monthly	Rate	Total
1CYAADAC7R1002223	DD56FJ	2024 Battle Motors Side Loader	1	$ 8,500.00	$ 8,500.00

Note: Rental Agreement is valid for a period of 1 months and cannot be canceled by returning equipment to RDK Assets. INC, dba RDK Truck Sales or an authorized rental location. Customer is responsible for ALL tire repairs, fuel and damages. See reverse side (Sec. 2) for allowance of hours.

Rental Starts 05/02/25 Mileage Out 8603 Hours Out 1398 Mileage In _____ Hours In _____

rental rate is $ $ 8,500.00 **If changes occur, applicable rental charges will result.**

No more than 60 hours per work week.
Customer is responsible for permits, licensing and repairs.
Oil & filters must be changed every 200 hours.
Customer is responsible for IFTA mileage tracking and reporting. Customer is responsible for displaying name and DOT Number on cab.
All reimbursable repairs need prior approval from RDK Assets, INC.

Minimum Rental Contract: Month to Month

Replacement Value of Vehicle: $354,900.00

Tax Rate 0.00%

Rental Amount	$ 8,500.00
Sales Tax	$ 0.00
Transportation	
Total	$ 8,500.00
Security Deposit* (Cash/Check)	$ 0.00
Total Due	$ 8,500.00

(*Security Deposit, net of any physical damage assessment, will be returned upon complete vehicle inspection by RDK Assets, INC, dba RDK Truck Sales)

LESSEE MUST CHECK ENGINE OIL, WATER AND FUEL DAILY. LESSEE MUST ADVISE LEESOR WHEN READY FOR PICK-UP. LESSEE AUTHORIZES THE DELETION OF ANY SAFETY EQUIPMENT AND ACCEPTS ALL LIABILITY FOR INJURY OR LOSS INCURRED. LESSEE IS RESPONSIBLE FOR ALL TIRES (to be returned with a minimum of 50% tread), MAINTENANCE, FUEL, MISSING PARTS, AND ALL DAMAGE OTHER THAN NORMAL WEAR AND TEAR.

Equipment shall be operated only by a qualified operator, licensed where required by the law, who is either Lessee or an authorized operator as set forth in this Agreement. Lessee is liable for all damage caused by striking overhead objects, and if equipment is used without Lessor's permission or in violation of this Agreement, or is damaged as a result of conditions enumerated on Page Two (reverse side), or conditions enumerated in the Loss and Damage Provisions, Lessee shall be liable for all damages. Lessee represents that the Equipment herein has been fully inspected by it and that same is in good condition.

PHYSICAL DAMAGE INSURANCE, LIABILITY, WORKMANS COMPENSATION, PROPERTY DAMAGE

Insurer _____ Policy No. _____ Exp. Date _____

Minimum Property Damage Coverage $_____ Date Insurance Certificate Received _____

BY EXECUTION OF THIS RENTAL AGREEMENT, LESSEE ACKNOWLEDGES THAT THE EQUIPMENT DESCRIBED HEREIN IS RENTED TO AND IN ACCORDANCE WITH THE TERMS, CONDITIONS AND PROVISIONS SET FORTH ABOVE (PAGE ONE) AND ON THE REVERSE SIDE OF THIS AGREEMENT (PAGE TWO) AND LESSEEREPRESENTS THAT LESSEE HAS READ AND AGREES TO ALL TERMS, CONDITIONS AND PROVISIONS OF THIS AGREEMENT. A FACSIMILE OF THIS AGREEMENT, OR ANY PART OF IT, SHALL BE ENFORCABLE AS AN ORIGINAL AND THIS AGREEMENT MAY BE EXECUTED AND ENFORECED IN COUNTERPARTS.

			Date
Lessee Signature _____	Prepared By:	Jasmine Garnicki	5/1/25
Lessee Name (please print) _____	Reviewed By:	Raquel Cordova	5/2/25
Drivers License # _____ State_____	Credit Approved By:		
Company Name_____	Security Deposit Received:		
Date_____	Security Deposit Returned:		

RKTR 3/09/2023

RDK ASSETS, INC. dba RDK TRUCK SALES

TERMS AND CONDITIONS

RDK Assets, INC. dba RDK Truck Sales, (Lessor), hereby rents to Lessee and Lessee hereby accepts from Lessor, the Equipment described on Page One ("Equipment") subject to all terms, conditions and provisions of this Agreement as set forth on Pages One and Two.

1. RETURN OF EQUIPMENT - Equipment is and shall remain the property of Lessor, and is in good repair and mechanical condition. Except as otherwise provided herein. Lessee shall return Equipment in the same condition as received, ordinary wear and tear excepted to the place from which rented on the date specified or sooner if demanded by Lessor. Lessee agrees that Lessor may apply any security deposit posted by Lessee towards Lessee's obligation under this Paragraph 1.

2. CHARGES - Lessee shall be liable for and shall promptly pay when due at the Lessor's office designated herein, all rental and other charges set forth herein, including but not limited to time, mileage, service, minimum 50% grade wear on tire, delivery, pick-up and other charges (including cost of fuel supplied by Lessor) in accordance with this Agreement or, if not stated herein, in effect at the location at which the rental is made; and, shall pay and/or reimburse Lessor for amounts equal to any sales tax, use tax, personal property tax, licenses, registration or fees levied or based upon the rentals of the Equipment or the use or the operation thereof. Rental payment is due at the beginning of each rental term. The daily, weekly and monthly rental shall entitle Lessee to a maximum of one-shift use (8 hours per day, 60 hours per week, 260 hours per month). Double-shift use will incur a charge of one-and-a-half (1 1/2) times the rental rate and triple-shift use will incur a charge of two (2) times the rental rate. Lessor shall have a lien as allowed by law for charges incurred hereunder upon premises and improvements upon which Equipment is employed. Rentals are F.O.B. the location at which this transaction was made. Shipping charges from such location to destination and return and all loading, unloading, assembling and dismantling shall be paid by Lessee.

3. USE OF EQUIPMENT - Equipment shall be used solely in Lessee's business and kept only at its place of business or job site (except that Equipment may be moved in the normal course of Lessee's business), and shall not be removed without prior written consent of Lessor. Lessee shall notify Lessor, prior to moving equipment from its place of business or the job site identified on Page One, of the location and project to which the equipment is relocated and the date(s) each piece of equipment is removed or placed on any job site. Lessee shall promptly respond to all requests by Lessor concerning the location of all equipment and any information requested by Lessor concerning the job site (including, but not limited to, the identity of the property owner, general contractor, surety, if any, and legal description of premises). Lessee agrees that Lessor may inspect the equipment at reasonable times whether at Lessee's place of business or a job site on reasonable written notice to, and in coordination with, licensee. Equipment shall be used only within its rated capacity by safe, careful, competent and qualified personnel. Lessee shall notify lessor immediately of any accident or occurrence, disablement or failure involving Equipment, and promptly furnish Lessor in writing all information required in connection therewith. Equipment shall not be used, operated, or driven: (A) to carry persons other than the driver or helpers; (B) to transport property for hire, unless all permits and licenses have been obtained by Lessee which are the sole responsibility of Lessee; (C) in violation of any law or ordinance; (D) by any person in violation of law as to age; (E) in any speed contests; and (F) by any person other than (1) Lessee; or (2) any of the following persons provided that such person is a qualified licensed driver and provided Lessee's permission is first obtained: (a) a member of Lessee's family, (b) Lessee's employer or (c) any employee of Lessee in the ordinary course of such employee's regular employment. If Equipment is used in violation of this Paragraph, or is obtained from Lessor by fraud or misrepresentation, or is used in furtherance of any illegal purpose, all use of Equipment is and shall be deemed used without Lessor's permission.

4. SERVICE - Lessee shall perform and pay for all normal, periodic and other basic service, adjustments and lubrication of Equipment, including but not limited to; checking of Equipment before each shift; and supplying fuel, oil and water; and checking cooling system (engine only); and, checking tire pressures and battery fluid and charge levels at least weekly. If Equipment fails to operate properly or needs repair, Lessee shall immediately cease using and notify Lessor forth-with, Lessee shall not make any alterations, additions or improvements to the Equipment without the prior written consent of Lessor.

5. INSURANCE - Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy of public liability and property damage insurance with bodily injury and death liability limits of at least $3,000,000 for each person in each accident and property damage liability limits of at least $1,000,000 on a primary and not excess or contributory basis against its liability for damages sustained by any person or persons including but not limited to employees of Lessee, as a result of the maintenance, use, operation, storage, erection, dismantling, servicing or transportation of Equipment. Lessee shall at Lessee's expense, during the term hereof, maintain in force a policy covering any and all physical damage to the Equipment in the' amount referenced on the reverse side of this Agreement. Lessee shall, on demand, furnish Lessor a certificate of insurance with respect to each policy required by this Paragraph 5, which certificates shall provide that they may not be canceled or materially modified except on thirty (30) days prior written notice to Lessor. Further, Lessee shall ensure that the certificates of insurance referenced herein shall name the Lessor as the loss payee and as an additional named insured on such certificates of insurance. Lessee agrees to abide by the provisions of said policies and to make a written report to Lessor and the insurer within 48 hours of Lessee's knowledge of any accident or occurrence involving Equipment. Lessee's agents and employees shall cooperate fully with Lessor and Lessee's insurer in the investigation, prosecution and/or defense of any claim or suit and shall do nothing to impair or invalidate any applicable insurance coverage. Lessee's insurance shall also insure except as may be otherwise provided herein, against all risks of direct physical loss or damage to the Equipment, while in transit or otherwise within the United States of America and Canada, and shall also include general average and salvage charges on Equipment while waterborne. In the event that Lessee receives any insurance proceeds with respect to any insurance policy required by this Paragraph 5, Lessee shall pay or apply such proceeds as directed by Lessor, Lessee shall also maintain worker's compensation insurance to extent required by law. Lessee agrees that credit for downtime is at Lessor's discretion only.

6. INDEMNITY - Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents and employees against all loss, liability and expense, including reasonable attorney's fees, incurred by any such individual or entity by reason of bodily injury including death, and property damage, sustained by any person or persons, including but not limited to the officers, agents and employees of Lessee, as a result of the maintenance, use, operation, storage, erections, mantling, dismantling, servicing, transportation, to the extent not caused by Lessor's negligence or willful misconduct, or a pre-existing condition of the equipment. Further, Lessee shall defend, indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, their officers, agents, and employees against all loss, liability and equipment costs, including reasonable outside attorneys' fees, incurred by any such individual or entity by reason of any damage sustained by any person or persons, including but not limited to the officers, agents, and employees of Lessee, as a result of any pollution liability claims or environmental impairment claim made as a result of the Lessee generating, storing, disposing of any hazardous substances, hazardous material, toxic substances, or any additional substances or materials commonly described as hazardous substances. The provisions of this Paragraph 6 shall continue in full force and effect notwithstanding the expiration of termination of this Agreement for any reason.

7. COMPLIANCE WITH LAW - Lessee shall, at its expense, comply with all state, federal and local laws and regulations affecting Equipment and its use, erection, design and transportation, including licensing and building code requirements and shall defend, indemnify and hold Lessor, its subsidiaries and related and affiliated companies, their officers, agents and employees harmless from all loss, liability and expense, including reasonable attorney's fees, harmless from all loss, liability and expense resulting from actual or asserted violations of any such laws.

8. VENUE AND CHOICE OF LAW; WAIVER OF JURY TRIAL This Agreement shall be governed by and construed and enforced in accordance with, the laws of the State of Florida, excluding laws of Florida relating to the resolution of conflict of laws of different jurisdictions. The forum selected for any proceeding or suit related to this Agreement shall be in the Circuit Court of the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, and the parties consent to this Court's personal jurisdiction over them or if the State Court does not have subject matter jurisdiction, then in the District Court of the United States for the Middle District of Florida, Tampa Division, to which the parties also consent to personal jurisdiction. Each party hereby waives any defense whether asserted by motion or pleading, that Hillsborough County, Florida, is an improper or inconvenient venue. This is intended to be a mandatory and not a permissive forum selection provision.

9. RENTAL - This Agreement is an agreement of rental only and Lessee shall not be deemed an agent or employee of Lessor for any purpose. Lessee shall not suffer any liens or encumbrances to attach to Equipment and shall defend, indemnify and hold Lessor harmless from all loss, liability and expense by reason thereof, including reasonable attorney's fees incurred by Lessor. Lessee shall not sub-let Equipment or assign this Agreement. The use of Equipment by others than Lessee or its employees shall be at Lessee's sole risk and subject to this Agreement. Lessor shall not be liable for any loss of or damage to any property left, stored, moved by or transported by Lessee or any other person in or upon Equipment either before or after the return thereof to Lessor whether or not caused by Lessor, and Lessee agrees to hold Lessor harmless from any such loss or damage including Lessor's reasonable attorney's fees. Lessee hereby assumes all risk of such loss or damage and waives all claims against Lessor by reason thereof and agrees to indemnify and hold harmless Lessor, its subsidiaries and affiliated companies, and all of its agents, officers and employees from and against all loss, liability, claim, action, or expense including reasonable attorney's fees arising out of such loss or damage.

10. LIABILITY - The liability of Lessor for delay or failure to pick up Equipment or for failure of Equipment to perform shall not exceed the rental charges herein provided for. Lessee shall be responsible for making arrangements for return of Equipment. This Agreement does not terminate until Equipment is received on Lessor's yard and all obligations under this agreement have been satisfied except as may otherwise be provided herein.

11. DEFAULT - All delinquent installments of rent shall bear interest at one-and-a-half percent (1 1/2%) per month if not prohibited by law or at the highest lawful rate. In the event of default or breach of this Agreement by Lessee, or if Lessee, Lessor may enter premises where Equipment is located on reasonable written notice to, and in coordination with, licensee and render inoperative or remove Equipment with process of law and may terminate this Agreement without prejudice to any remedies or claims which Lessor might otherwise have for arrears of rent, expense of retaking, court costs and reasonable outside attorney's fee. Lessee shall remain liable for the full value of the Equipment or for any loss or damage to the Equipment, notwithstanding any termination of this Agreement. Upon the occurrence of any event of default, Lessee agrees to pay all actual costs and expenses which may by incurred by Lessor, including a reasonable outside attorney's fee, to enforce any right provided herein or collect any sums due, including any appeal or bankruptcy proceeding

12. DICLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITY - Equipment described herein as new is leased subject to such warranties as are made in writing by the manufacturer thereof. Lessor will cooperate with Lessee in obtaining adjustment from manufacturer for breach of any such manufacturer's warranty; any expense to be for Lessee's account. In the event it is found that there are defective parts within such period as the appropriate manufacturer's agreement to replace defective parts is applicable, Lessor will furnish at Lessor's repair facilities during regular working hours, such labor as is required for replacement or repair of defective parts covered by manufacturer's warranty. Cost of necessary transportation to and/or from Lessor's repair facility shall be borne solely and exclusively by Lessee. EXCEPT FOR THIS AGREED OBLIGATION TO FURNISH LABOR TO MAKE REPLACEMENT OR REPAIR OF DEFECTIVE PARTS COVERED BY MANUFACTURER'S WARRANTY WITHIN THE MANUFACTURER'S WARRANTY PERIOD, LESSOR SHALL NOT BE LIABLE FOR DEFECTS IN OR FOR ANY DAMAGES OR LOSS TO THE EQUIPMENT LEASED NOR CAUSED BY THE EQUIPMENT LEASE, AND UNDER NO CIRCUMSTANCES SHALL LESSOR OR MANUFACTURER BE LIABLE AND HEREBY SPECIFICALLY DISCLAIMS RESPONSIBILITY FOR ANY INDIRECT SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE LESSEE OR TO ANY THIRD PARTY. THE FOREGOING UNDERTAKING WITH RESPECT TO NEW EQUIPMENT IS IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; FURTHER LESSOR MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO USED EQUIPMENT AND LESSEE TAKES AND RENTS ANY USED EQUIPMENT "AS IS" AND WITH ALL FAULTS OR DEFECTS UNLESS A MODIFICATION IS ENDORSED HEREIN OR CONTAINED IN A SEPARATE WRITING SIGNED BY AN OFFICER OF LESSOR. Lessor warrants that it (1) owns/controls the equipment and (2) has the authority to enter this agreement and grant rights granted hereunder.

13. TITLES, HEADINGS AND CAPTIONS - All titles, headings and captions used in this Agreement have been intended for administrative convenience only and do not constitute matters to be construed in interpreting this Agreement.

14. ENTIRE AGREEMENT - This Agreement expresses the entire agreement between the Lessor and Lessee. No change, modification or alteration of the terms, conditions and provisions herein will be effective against Lessor unless the same are in writing and signed by a duly authorized officer of Lessor. Lessee's execution of this agreement and/or acceptance of delivery of any part of equipment to be furnished hereunder shall constitute Lessee's acceptance of the terms, conditions and provisions of this agreement and the exclusion of any terms, conditions and provisions otherwise stated by Lessee or contained in Lessee's purchase documents which conflict with or limit the terms, conditions and provisions contained herein. The paragraph headings contained in this Agreement are for convenience only and shall not be used to expand or limit the express terms, conditions and provisions herein.

15. NO WAIVER - Lessor shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is specific and in writing. No delay or omission by Lessor in exercising any of its rights or remedies hereunder shall constitute a waiver thereof, or shall constitute any further waiver thereafter. All rights and remedies of a party are cumulative and concurrent and the exercise of one right or remedy shall not be deemed to be a waiver or release of any other right or remedy.

RDK ASSETS, INC. dba RDK TRUCK SALES LOSS AND DAMAGE PROVISIONS

1. LESSORS GENERAL RESPONSIBILITY - Under the RDK Assets, INC. dba RDK Truck Sales Agreement ("Agreement") the Lessee renting the Equipment is responsible to RDK Assets, INC. dba RDK Truck Sales for any loss or dam- age to the Equipment and/or its return in the same condition in which received, except for ordinary wear and tear. Such responsibility is limited to the full value of the Equipment at the time it is lost or damaged, less its salvage value, plus an administrative fee and RDK Assets, INC. dba RDK Truck Sales related expenses, including loss of use, appraisal fees, recovery costs and reasonable attorney's fee. In the event the Equipment is damaged in a manner for which the Lessee is responsible, such Equipment may be repaired by Lessor or a repairer of Lessor's then prevailing hourly rate for labor posted at the Lessor's branch where the Equipment is be repaired, or the repairer's hourly rate for the labor charged to repairer for such repairs, as the case may be. Parts will be charged at Lessor's list price. Lessee is also responsible for the expenses relating to such loss or damage to the Equipment as specified in the Agreement.

2. SUBROGATION - In the event of any loss or damage to the Equipment, Lessor will subrogate with respect to any right of the Lessee to recover against any person, firm or corporation. Lessee will execute and deliver whatever instruments and papers are required and do whatever else is necessary to secure such rights. Lessee will cooperate fully with Lessor and/or its insurers in the prosecution of those rights and will neither take nor permit nor suffer any action to prejudice Lessor's right with respect thereto.

Lessor agrees that Lessor's rights and remedies in the event of any breach of this agreement shall be limited to Lessor's remedy at law for monetary damages, if any, and Lessor shall not be entitled to seek injunctive or other equitable relief or to enjoin or restrain the production, distribution, exhibition, advertising or any other means of exploitation of the production hereunder or any subsidiary, derivative or ancillary rights in connection therewith, or with the advertising, publicizing, exhibiting or exploitation of said photography and/or said sound recordings or any of Lessee's rights hereunder.

DATE: September 10, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Katrina Hill, Director of Public Affairs & Communication

SUBJECT: **Resolution R-25-48:** Updating the Grant and Aid Application Review Committee and related provisions.

BACKGROUND

In November 2021, the City Commission approved changes to the City's Grant and Aid Program which provides financial support to local not-for-profit agencies serving the residents of Winter Haven. One of the changes approved was the creation of a citizen committee to help review the submitted applications and make recommendations to the City Commission specific to the award of grants.

On April 12, 2022, the City Commission approved Resolution R-22-19 which established the Grant and Aid Application Review Committee. The Committee was initially formed by each City Commissioner recommending an individual for appointment to a three-year term. Three of the original five members agreed to continue serving for a second three-year term beginning in 2025. Two of the seats were vacated for various reasons and were filled by appointment by the City Commission.

Resolution R-25-48 updates the following elements of the Grant and Aid Application Review Committee:

- Removes specific committee-member names from the resolution.
- Requires committee vacancies to be advertised by the City Clerk for applications. Applicants will be reviewed by the City Manager or his designee, staff will make a recommendation to the City Commission, and appointments will be made by vote of the City Commission.
- Text has been updated from the original Resolution to convey annual meeting timeframes instead of specific dates.
- The original Resolution listed three specific staff member titles as ex-officio members. Due to changing organizational structure, title changes, and personnel changes, Resolution R-25-48 provisions allow the City Manager to appoint up to three ex-officio members annually.

Following adoption of R-25-48 one currently vacant seat will be advertised and a recommendation for appointment will be brought back to the City Commission. Additionally, a fall planning meeting of the GAARC will be held in preparation for the 2026 application cycle.

FINANCIAL IMPACT

There is no financial impact associated with the passage of R-25-48.

STRATEGIC PLAN ALIGNMENT

- **Pillar:** Quality of Life
- **Goal:** 2.2 – Support partnerships to meet the needs (housing, health, mental health, workforce, education) of all members of the community and help those most in need find the proper pathways to support.

RECOMMENDATION

Staff recommends the City Commission approve Resolution R-25-48 and authorize the City Manager and/or his designee to take all necessary actions related thereto.

ATTACHMENTS

- Resolution R-25-48

RESOLUTION R-25-48

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER HAVEN, FLORIDA; UPDATING THE GRANT AND AID APPLICATION REVIEW COMMITTEE AND RELATED PROVISIONS; AND PROVIDING FOR SEVERABILITY, THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS, A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Haven is an incorporated municipality with home rule powers under Florida law; and

WHEREAS, in furtherance of promoting the health, safety, and welfare of the citizens and residents of the City and for the promotion of the quality of life for the residents and citizens of the City of Winter Haven, the Winter Haven City Commission has established a Grant and Aid Program whereby the Winter Haven City Commission appropriates funds each fiscal year to local not-for-profit entities providing services to Winter Haven citizens and residents; and

WHEREAS, participation in the Grant and Aid Program requires the submittal of an application to the City staff and Winter Haven City Commission for review prior to the allocation and appropriation of funding; and

WHEREAS, the Winter Haven City Commission utilizes a number of advisory committees consisting of citizens and residents appointed by them to make recommendations to the Winter Haven City Commission on various matters of public concern or community interest; and

WHEREAS, on April 12, 2022, the Winter Haven City Commission adopted Resolution R-22-19 which established a Grant and Aid Advisory Review Committee (GAARC), an advisory committee comprised of five (5) citizens to serve for three (3) years and three

(3) designated non-voting City staff as ex-officio members, to assist in the review of applications for the City's Grant and Aid Program; and

WHEREAS, the Winter Haven City Commission, in order to continue to assist them in a review of applications submitted for the City's Grant and Aid Program, wishes to update the GAARC in the manner as set forth in this Resolution R-25-48; and

WHEREAS, each member of the Winter Haven City Commission initially selected a resident to be appointed to the GAARC and announced said selections at an open and duly noticed public meeting of the City Commission; and

WHEREAS, in the event a GAARC member fulfilled their term or resigned the GAARC, a new GAARC member has been appointed by the Winter Haven City Commissioner serving in the seat who initially appointed that GAARC member; and

WHEREAS, the GAARC has continued to fulfill its mission; and

WHEREAS, from time-to-time an individual member of the GAARC may roll off the GAARC at the end of a three-year term or may not be able to fulfill their term leading to a future need to appoint new members of the GAARC in a transparent and efficient manner.

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

1. The above recitals are incorporated herein and form a factual basis for the passage of this Resolution.

2. The GAARC established for the purpose of reviewing and making recommendations to the Winter Haven City Commission relating to the allocation and appropriation of funding for the City's Grant and Aid Program each fiscal year is hereby reaffirmed.

3. Appointees to the GAARC will serve a three-year term.

4. As seats become vacant, the City Clerk shall issue notice of such vacancy and collect applications for such vacancies. Applications shall be reviewed by the City Manager or his designee who will bring a recommendation to the Winter Haven City Commission for consideration for appointment to the GAARC.

5. The Winter Haven City Commission will consider applications and staff recommendations and appoint members to the GAARC by a vote at a duly noticed public meeting of the City Commission at which a quorum is present in accordance with applicable Florida Law, Charter, and City Code of Ordinance and City Commission rules and regulations relating to taking action on items of business on a published agenda.

6. The City Manager may appoint up to three staff members to the GAARC as ex-officio non-voting members of the GAARC.

7. Subsequent to appointment and the passage of this Resolution, the City's GAARC shall meet in annually in May and June after proper notice and in accordance with all applicable provisions of Florida's Government in the Sunshine Law and other applicable Florida Law, City Charter, City Code of Ordinances, and City Commission rules and regulations in order to review all applications to the City's Grant and Aid Program and in order to make appropriate recommendations to the Winter Haven City Commission on the allocation and appropriation of funds therefore for the fiscal year commencing the upcoming October 1. At the first annual meeting of the GAARC, a Chairman and Vice Chairman shall be selected from among the members of the GAARC. Thereafter the GAARC may meet annually in the fall to review the City's Grand and Aid Program and offer guidance and recommendations for policy and procedure to the Winter Haven City Commission for consideration.

8. In the conduct of its meetings the GAARC shall comply with all City Code requirements regarding public participation including but not limited to the requirements set forth in Section 2-227 of the City's Code of Ordinances. To the extent that the GAARC desires to adopt any By-laws for the conduct of its meetings such proposed By-laws shall first be presented to the City Commission for approval. City staff shall provide support for the noticing and taking minutes of all meetings and proceedings of the GAARC including but not limited to transmitting any and all recommendations for the allocation and appropriation of funding each fiscal year for the City's Grant and Aid Program and related matters.

9. The provisions of this Resolution are severable. If any word, sentence, clause, phrase or provision of this Resolution for any reason is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

10. The administrative correction of scrivener's errors that do not affect the intent of this Resolution are hereby authorized to be made by the City Manager or his designee by filing a corrected copy of this Resolution with the City Clerk.

11. All Resolutions in conflict with this Resolution are repealed but only to the extent necessary to give this Resolution full force and effect.

12. This Resolution shall take effect immediately upon its passage.

INTRODUCED AND PASSED by the City Commission of the City of Winter Haven, Florida, in Regular Session, on this 22nd day of September 2025.

CITY OF WINTER HAVEN, FLORIDA

BY: _____

Mayor–Commissioner

ATTEST:

_____

CITY CLERK

Approved as to form:

_____

CITY ATTORNEY

DATE: September 12, 2025

TO: Honorable Mayor and City Commissioners

VIA: T. Michael Stavres, City Manager
M.J. Carnevale, Deputy City Manager

FROM: Eric Labbe, Economic Opportunity and Community Investment Director

SUBJECT: Contribution Agreement with Southeastern University

BACKGROUND

Southeastern University, whose main campus is located in Lakeland, Florida, desires to expand into downtown Winter Haven and to occupy the upper floor of the recently renovated Exchange Building located at 250 Magnolia Avenue, SW. Southeastern intends to maintain administrative, faculty, and student presence at this location.

In order to facilitate the expansion of Southeastern University into downtown Winter Haven a Contribution Agreement between the City and Southeastern has been developed. The Contribution Agreement identifies certain performance metrics to be achieved by Southeastern over the next 3 years. Subject to successful completion of the annual performace metrics, the City shall contribute up to $50,000 per year for 3 years to Southeastern.

Performance metrics are related to Southeasterns commitment, community presence, student growth, educational programming, and community engagement.

FINANCIAL IMPACT

The financial impact associated with this Contribution Agreement is up to $50,000 per year for 3 fiscal years, totally a maximum contribution about of $150,000. Year one funding will come from an increase to interest income as identified by the Finance team. Payments for years 2 and 3 will be budgeted within the appropriate fiscal year during the normal budgeting process.

STRATEGIC PLAN ALIGNMENT

Cooperation Agreements are not specifically defined as a goal or strategy in the Strategic Plan. However, an agreement to facilitate the presence of a university in downtown Winter Haven most closely aligns with Goal 1.1 of the Economic Sustainability Pillar. Specifically, Goal 1.1 reads, “Through partnerships,

support the availability of a qualified and skilled workforce to meet the demands of the City organization and business community."

RECOMMENDATION

Staff recommends the City Commission approve the Contribution Agreement and authorize the Mayor and other City Officials to execute same, and for the City Manager, or his designee, to take all necessary steps to ensure compliance with the terms of the Contribution Agreement.

ATTACHMENT

- Contribution Agreement

CONTRIBUTION AGREEMENT

This CONTRIBUTION AGREEMENT ("Agreement") is made and entered into as of the __ day of _____, 2025, by and between **THE CITY OF WINTER HAVEN, a Florida Municipal Corporation organized and existing under the laws of the State of Florida** (hereinafter referred to as the "City"), and **SOUTHEASTERN UNIVERSITY, INC., a Florida Not For Profit Corporation** (hereinafter referred to as "Southeastern"), their successors or permitted assigns.

WHEREAS, Southeastern desires to provide affordable and accessible education that directly responds to the unique needs of the Winter Haven community; and

WHEREAS, Southeastern and the City of Winter Haven City Commission mutually agree that aligning educational pathways with the economic and cultural fabric of the community is mutually beneficial to the citizens, residents and business owners of the City of Winter Haven and to the successful implementation of the mission of Southeastern; and

WHEREAS, the City Commission of the City of Winter Haven acknowledges the educational, cultural, and economic benefit associated with the expansion of educational programming and facilities into and within the Winter Haven community; and

WHEREAS, Southeastern desires to execute a lease, and occupy, the second floor of property located at 250 Magnolia Avenue, SW in downtown Winter Haven, also known as the Exchange Building; and

WHEREAS, the City's proposed Annual Contribution contemplated under this Agreement promotes the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

NOW THEREFORE, in consideration of the terms set forth herein, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated by reference.

2. **Annual Contribution.** Pursuant to the successful demonstration of the achievement of the performance metrics described in Section 3 below, the City of Winter Haven shall contribute up to $50,000 annually for a period of three (3) consecutive years, not to exceed $150,000 to Southeastern.

3. **Performance Metrics.** Prior to the payment of any annual contribution contemplated to be made herein by the City of Winter Haven, Southeastern must demonstrate compliance with all of the following performance metrics and schedule to the satisfaction of the City Manager as determined within his sole discretion. The performance metrics are related to commitment, community presence, student growth, educational programming, and community

engagement.

Year 1 (Performance metrics commencing upon the effective date of this Agreement)

- (Commitment) Execution of a five (5) year lease to occupy the second floor of the Exchange Building.
- (Community presence) Occupancy of seven (7) executive offices within the Exchange Building by Southeastern staff and/or faculty.
- (Community presence) Installation and maintenance of exterior building signage clearly indicating that the Exchange Building houses Southeastern University staff, faculty, and students. Installation and maintenance of front door signage all in compliance with applicable law, Code of Ordinances, rules and regulations.
- (Student growth) On-site academic engagement of at least 10 students enrolled at Southeastern on either a full time and/or part time basis.
- (Student growth) Host one cohort learning opportunity for at least 15 students in Downtown Winter Haven with a minimum three (3) night stay.
- (Community engagement) Become a member of the Winter Haven Chamber of Commerce, and a partner-level member of Main Street Winter Haven.

Year 2 Performance Metrics

- (Educational programming) Creation of dedicated study and support spaces for students, including nursing students with clinical rotations in the area, at the Exchange Building.
- (Student growth) On-site academic engagement of at least 30 students enrolled at Southeastern on either a full time and/or part time basis.
- (Student growth) Host three (3) cohort learning opportunities for at least 15 students per cohort in Downtown Winter Haven with a minimum of nine (9) overnight stays (3 nights per cohort).
- (Community engagement) Maintain memberships with the Winter Haven Chamber of Commerce and Main Street Winter Haven.

Year 3 Performance Metrics

- (Educational programming) Relocation of key graduate programs to the Exchange Building including a Master of Medical Science, Doctor of Ministry, and Master of Business Administration programs.
- (Student growth) On-site academic engagement of at least 50 students enrolled at Southeastern on either a full time and/or part time basis.
- (Student growth) Host five (5) cohort learning opportunities for

at least 15 students per cohort in Downtown Winter Haven with a minimum of 15 overnight stays (3 nights per cohort).

- (Community engagement) Maintain memberships with the Winter Haven Chamber of Commerce and Main Street Winter Haven, and become a Community-level member of the Winter Haven Economic Development Council.
- (Community presence) Occupation of at least 13 executive offices within the Exchange Building by Southeastern staff and/or faculty.

4. **Facility presence.** Southeastern shall maintain staff and/or faculty presence within the Exchange Building from 9am to 5pm (at a minimum), Monday through Friday, excluding traditionally recognized Southeastern holidays. The Exchange Building shall remain open and accessible during these times to the general public.

5. **Payment**

5.1 Upon demonstration (to the satisfaction of the City Manager in his sole and absolute discretion) by Southeastern of fulfillment of the performance metrics as identified in year one (1), the City Manager shall authorize payment of not more than $50,000 to Southeastern in a timing and manner as reasonably determined by the City Manager.

5.2 Upon demonstration (to the satisfaction of the City Manager in his sole and absolute discretion) by Southeastern of fulfillment of the performance metrics as identified in year two (2), the City Manager shall authorize payment of not more than $50,000 to Southeastern in a timing and manner as reasonably determined by the City Manager. Provided however, such payment shall not be made any sooner than 365 days from the date of any initial payment that is made, if any, as described in subparagraph 5.1 above.

5.3 Upon demonstration (to the satisfaction of the City Manager in his sole and absolute discretion) by Southeastern of fulfillment of the performance metrics as identified in year three (3), the City Manager shall authorize payment of not more than $50,000 to Southeastern in a timing and manner as reasonably determined by the City Manager. Provided however, such payment shall not be made sooner than 365 days from the date of any second payment that is made, if any, as described in subparagraph 5.2 above.

6. **Miscellaneous.**

6.1 Should Southeastern fail to demonstrate fulfillment of any of the performance metrics identified in paragraphs 3 and 4 above, but demonstrate to the satisfaction of the City Manager in his sole and absolute discretion that commitment, community presence, student growth, educational programming, and community engagement by Southeastern has met the intent and spirit of this Agreement, the City Manager may present such evidence and determination to the City Commission to seek authorization for payment under the terms of this Agreement. Any decision by the City Manager as to fulfillment of performance

metrics and payment matters hereunder shall be final.

6.2 This Agreement may not be amended, modified, altered or changed in any respect, except by a written agreement which is signed by authorized officers of both parties and which makes specific reference to this Agreement and is approved by the City Commission of the City of Winter Haven which approval may not be unreasonably withheld, but may be reasonably conditioned and/or delayed as determined solely within the discretion of the City. In the event that Southeastern requests any amendment, modification, change or assignment, in whole or in part, and/or any supplementary action related to the Agreement, then such request must be in writing and accompanied by payment to the City's Director of Economic Opportunity & Community Investment of cleared funds in the amount of $3,500.

6.3 In the event of any litigation related to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs, including, without limitation, any such fees or costs related to appellate or bankruptcy proceedings.

6.4 This Agreement was drafted with the joint participation of the parties hereto and shall be construed neither more strongly against nor in favor of either of them, but, rather, in accordance with the fair meaning hereof.

6.5 Any number of counterparts of this Agreement may be signed and delivered, each of which shall be considered an original and admissible into evidence, and all of which together shall constitute one and the same instrument. Further, any facsimile or electronic signature shall be deemed an original signature for purposes of this Agreement.

6.6 The parties hereto agree to execute and deliver such other documents and instruments as any party may reasonably request to effectuate and carry out the provisions of this Agreement.

6.7 The parties agree that they are not partners or joint venturers, and neither is agent for the other.

6.8 This Agreement shall not be binding upon any party until it is executed by all parties. Each individual signing this Agreement on behalf of any corporation or other entity represents and warrants that he or she has the requisite authority to execute this Agreement on behalf of such entity, and by doing so, to bind such entity to all the terms and provisions of this Agreement.

6.9 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal and legal representatives, successors, successors in title, and lawful and permitted assigns. Neither party may assign this Agreement, or delegate its responsibilities hereunder, without the express written consent of the other party and approved by the City Commission of the City of Winter Haven which approval by the City may not be unreasonably withheld, but may be reasonably conditioned or delayed as determined within the sole discretion of the City. Provided further that the rights and obligations related to any incentives and/or payments set forth in the Agreement may not be assigned,

pledged and/or hypothecated in any manner whatsoever in whole or in part absent specific written approval by the City Commission of the City of Winter Haven which approval may be withheld, conditioned or delayed within the sole discretion of the City. The additional fee required in paragraph 6.2 above shall also be required in the event that any assignment in whole or in part, or other similar request is made hereunder. Any effort by Southeastern to attempt to assign, pledge, and/or hypothecate the rights and/or obligations under this Agreement in whole or in part without first obtaining the written approval and/or consent of the City Commission of the City of Winter Haven shall operate to automatically and immediately invalidate the obligations of the City under this Agreement and in such event the City shall have no further obligations to make any payments as contemplated in this Agreement.

6.10 No member, official or employee of the City shall be personally liable to Southeastern or to any person with whom Southeastern shall have entered into any contract, or to any other person in the event of any default or breach by the City, or for any amount which may become due to Southeastern or any other person under this Agreement.

6.11 Neither Southeastern nor the City shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, terrorist activity, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, acts of public enemy, epidemic, pandemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities services, lack of transportation, litigation, weather and other acts or occurrences beyond the control or without the control of such party; provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay and a reasonable time to resume after such delay. The party invoking this Section 6.11 shall deliver notice to the other party as provided in Section 6.19 setting forth the event of Force Majeure. Upon expiration of the event of Force Majeure, either party may notify the other that the event has expired and that the extension of time granted as a result of such delay has ended.

6.12 To the extent permitted by law, including Section 768.28, Florida Statutes (2022), as amended, each party ("Indemnifying Party") agrees to indemnify and defend the other party (the "Indemnified Party") from and against all suits or actions of any kind including attorney's fees (both trial and appellate) and costs incurred by the Indemnified Party brought against the Indemnified Party based on personal injury, bodily injury, death or property damage, destruction received or reasonably claimed to be received or sustained by any person or persons arising out of or in connection with any negligent act or omission of the Indemnifying Party, its agents, employees, or assigns while performing the duties and obligations required by this Agreement. This indemnification shall survive the termination of this Agreement. It is understood and agreed that no party to this Agreement waives any sovereign immunity it may have as provided by applicable law and agrees that any indemnification by the City is subject to the limits of liability set forth in Section 768.28 of the Florida Statutes regardless of whether such obligations are based in tort, contract, statute, strict liability, and negligence, product liability or otherwise.

6.13 The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provision of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision has never been contained herein.

6.14 Neither this Agreement nor the obligations imposed upon the City hereunder shall be or constitute an indebtedness or general obligation of the City or other Governmental Authority within the meaning of any constitutional, statutory or charter provisions requiring the City or other Governmental Authority to levy ad valorem taxes nor a lien upon any properties or funds of the City or other Governmental Authority. Southeastern agrees that the obligation of the City to make any payments, if any, by the City to Southeastern pursuant to this Agreement shall be subordinate to the obligations of the City to pay debt service on any bonds issued by the prior to the Effective Date and subject to the receipt of an annual appropriation of sufficient funds by the City in order to make any payments contemplated hereunder. Except as otherwise set forth herein, this Agreement shall not constitute an agreement to appropriate funds by the City in any fiscal year while this Agreement is in effect.

6.15 Nothing contained herein shall be deemed, construed or applied to cause any Governmental Authority, specifically including the City, to waive its right to exercise its governmental power in any manner other than that which is customary for the exercise of such governmental powers.

6.16 Notwithstanding any other provision of this Agreement, if an audit of the City is conducted regarding the payments made under this Agreement and additional evidence regarding the payments made under this Agreement is required then in that event Southeastern agrees that Southeastern shall reasonably cooperate to provide any and all additional documents as may be reasonably required under the audit and identified by the City relating to payments made by the City under this Agreement within thirty (30) calendar days of receipt of the City's written request for same.

6.17 The words "herein" and "hereof" when used in this Agreement refer to this Agreement in its entirety and not solely to any specific sentence, paragraph or section.

6.18 All legal actions rising out of or connected with this Agreement must be instituted in the Circuit Court of Polk County, Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

6.19 Any notices required by this Agreement shall be in writing and shall be either delivered in person, sent by overnight courier such as United Parcel Service or Federal Express, or mailed by United States Mail, certified with return receipt requested and all postage charges prepaid. Any notice mailed in accordance with these standards to the proper address as set forth below shall be deemed to be effective three (3) calendar days after the date of postmark; notices delivered in person shall be effective upon delivery; and notices sent by overnight courier shall be effective as of the next business day after being placed into the hands of the courier service, properly addressed; and any time period shall begin running as of that date, whether or not the notice is actually received.

Notices shall be given in the following manner, or in such other manner as may be directed by the parties to this Agreement, in writing from time to time, to the following persons as follows:

For the City:	T. Michael Stavres City Manager City of Winter Haven 451 Third Street, N.W. Winter Haven, Florida 33881
With a copy to:	Eric Labbe, Director of Economic Opportunity & Community Investment City of Winter Haven 451 Third Street, NW Winter Haven, Florida 33881
With a copy to: (which shall not constitute notice)	Frederick J. Murphy, Jr., City Attorney Boswell & Dunlap LLP 245 South Central Avenue Bartow, Florida 33831
For Southeastern:	XXXX XXXXX 1000 Longfellow Blvd Lakeland, FL 33801

Each party shall be responsible for notifying the other party of any change in their address.

6.20 Public Records. To the extent that this Agreement is construed to be a contract for services with a public agency and that it is acting on behalf of City as contemplated in Chapter 119 of the Florida Statutes, then Southeastern agrees to:

1. Keep and maintain public records required by the City to perform the service contemplated in this Agreement.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested public records or allow the public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Southeastern does not transfer the public records to the City.

4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of Southeastern or keep and maintain public records required by the City to perform the service. If Southeastern transfers all

public records to the City upon completion of the Agreement, Southeastern shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Southeastern keeps and maintains public records upon completion of the Agreement, Southeastern shall meet all applicable requirements for retaining public records. All public records stored electronically must be provided to the City's custodian of public records, in a format that is compatible with the City's information technology systems.

IF SOUTHEASTERN HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SOUTHEASTERN'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET, N.W., WINTER HAVEN, FLORIDA 33881.

If Southeastern does not comply with a public records request, City shall enforce the Agreement which may include immediate termination of this Agreement.

6.21 **Required Clauses.**

Pursuant to Florida Statutes, the following provisions are added to the Agreement Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Southeastern acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into this Agreement with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Southeastern acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, Southeastern becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of Southeastern and any subcontractor hired by Southeastern. If Southeastern enters into a contract with a subcontractor, the subcontractor must provide Southeastern with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Agreement, and if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by Southeastern, Southeastern may not be awarded a public contract for a period of one (1) year after the date of termination.

(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Agreement, Southeastern certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Southeastern certifies that no government of a Foreign Country of Concern has a "controlling interest" in Southeastern as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is Southeastern organized under the laws of a Foreign Country of Concern, nor does Southeastern have its principal place of business located in a Foreign Country of Concern. If this Agreement permits Southeastern to access the personal identifying information of any individual, Southeastern agrees to notify the City in advance of any contemplated transaction that would cause Southeastern to be disqualified from such access under Section 287.138 of the Florida Statutes. Southeastern agrees to furnish the City with an affidavit signed by an officer or representative of Southeastern under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Agreement, Southeastern certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying,

concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Southeastern agrees to furnish the City with an affidavit signed by an officer or representative of Southeastern under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

THE CITY OF WINTER HAVEN, FLORIDA, a Florida Municipal Corporation

By:_____
Nathanial J. Birdsong, Jr.
As its: Mayor

ATTEST WITH SEAL:

By_____
Vanessa Castillo, MMC, City Clerk

Approved as to correctness and form:

By_____
Frederick J. Murphy, Jr., City Attorney

SOUTHEASTERN UNIVERSITY, INC., a Florida Not For Profit Corporation

_____ By:_____
As:_____
_____, 2025.

_____
Two Witnesses

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CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: iPaySmart Inc., a Delaware corporation,
15495 Sand Canyon Avenue, Suite 100
Irvine, CA 92618

Name of Contract: Order Form for Premium Payment Services dated November 6, 2024.

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Order Form for Premium Payment Services dated November 6, 2024 are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this Addendum is the date that the governing body of the City approves and enters into the Contract and this Addendum at a duly called open public meeting. The City hereby represents and warrants that as of the date the City enters into the Contract and this Addendum, the City has secured all requisite approvals contemplated by the foregoing sentence.

(d) Vendor represents that it is authorized to transact business in the State of Florida.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this Addendum are governed by Florida law.

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(g) Vendor and the City acknowledge that the City's entry into the Contract, remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this Addendum, it has had an opportunity to review this Addendum with its legal counsel and fairly negotiated this Addendum at arm's length.

(j) The City acknowledges that the Contract and this Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this Addendum.

§ 2. <u>Definitions.</u>

Words used in the Contract and Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Contract Documents means the Order Form for Premium Payment Services dated November 6, 2024; and City of Winter Haven Contract Addendum.

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. <u>Primacy of Addendum.</u>

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This Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, the terms of this Addendum shall be primary and shall control over any expressly conflicting background term and conditionin the Contract Documents.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts. Vendor hereby agrees to accept service of process by mail to 15495 Sand Canyon, Ste. 100, Irvine, CA 92618.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's

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payment obligations to Vendor of any kind or type, the City or the Vendor may immediately terminate the Contract and this Addendum and be released from any future responsibility or liability thereunder. The City hereby represents and warrants that it has received approval for funding sufficient to pay its fee obligations set forth in the Supplemental Order Form.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2024), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records

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stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall be entitled to any remedies set forth in Section 119.0701 of Florida Statutes, applicable law, or the Contract.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that, except as may otherwise be set forth in the Agreement, the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. .

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This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

(c) This Section shall survive termination of the Contract and this Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract, this Addendum, the Contract Documents, and the resulting contract with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Vendor acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this Addendum, the Contract Documents, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is

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terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

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§ 10. Assignment by Vendor.

The contract expressed by the Contract, this Addendum, and the Contract Documents shall not be assigned by either party, or any successor thereto, in whole or in part without the prior written consent of the other party, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 9 and 10*]

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City of Winter Haven Contract Addendum
to:
Supplemental Order Form for Premium Payment Services dated November 6, 2024

Signature Page for Vendor

Vendor:

Executed this 30th day of July, 2025

By: DocuSigned by: Harman Sandhu B15E7D788BA6426...

Name: Harman Sandhu

Title: President

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City of Winter Haven Contract Addendum
to:
Supplemental Order Form for Premium Payment Services dated November 6, 2024

City of Winter Haven, Florida:

Executed this ____ day of _____, 2025

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney

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Order Form for Smart Energy Water Cloud Services Subscription

Between Smart Energy Systems, Inc. dba Smart Energy Water
15495 Sand Canyon Avenue, STE 100
Irvine, CA 92618
("**SEW**")

And City of Winter Haven, a Florida Municipal corporation
451 Third St. NW
Winter Haven, FL 33881
("**Customer**")

1. Order Form

This Order Form, once signed by SEW and Customer shall be a binding agreement for the SEW Cloud Services (as defined herein) and/or other products or services set forth herein effective as of the date it is signed by Customer (the "**Effective Date**"). Customer subscribes to, and SEW will provide to Customer, the SEW Cloud Services and/or other products and services selected in Sections 2 through 5 of this Order Form for the Initial Term (as defined herein) pursuant to the applicable terms and conditions of this Agreement (as defined herein).

2. SEW Cloud Services

The table below sets forth the SEW Cloud Services purchased by Customer for the Initial Term subject to the terms and conditions of this Agreement.

✓	Product Code	Product Name
SmartCX – Mass Market Persona		
☒	CXM-10-Web	Customer Web Portal
☒	CXM-10-Mobile	Customer Mobile Apps (iOS & Android)
☒	CXM-10-1	CXM – My Account
☒	CXM-10-2	CXM – Billing
☒	CXM-10-3	CXM – Usage
☒	CXM-10-5	CXM – Outages
☒	CXM-10-6	CXM – Notifications
☒	CXM-10-7	CXM – Service
☒	CXM-10-8	CXM – Connect Me
☒	CXM-10-9	CXM – Ways to Save (fka Efficiency / Conservation)
☒	BXM -10-13	BXM – Dashboard
☒	BXM-10-14	BXM – Ways to Save (fka Efficiency / Conservation)
☒	BXM -10-15	BXM – Notifications
☒	BXM -10-16	BXM – CSR
☒	BXM -10-17	BXM – Administration
☒	BXM -10-18	BXM – Outages
☒	BXM -10-19	BXM – Customer AI / Analytics
SmartIX		
☒	IX -10-3	IX – Leakage Analytics (Water clients only)
Platform Support & Maintenance Subscription		
☒	Sup-1	Standard Support Plan
☐	Sup-2	Max Support Plan (requires a separate order form)

3. Subscriptions, Initial Term, and Fees

The table below sets forth the type and number of SEW Cloud Service subscriptions purchased by Customer (as well as the number of users authorized to utilize such service) for the Initial Term. The "Initial Term" means that certain period January 14, 2025, and ending on January 13, 2030. All fees set forth herein are in U.S. Dollars (USD).

✓	Product	Subscription Metric	Number of Subscriptions	Annual Subscription Fee
☒	SmartCX - Mass Market Persona	Meters / Active Services	40,000	$55,610 Includes two (2) guest users per account for web portal and mobile application access Subscription for additional meters can be purchased at $1.60 per meter. Discounts shall be available for meters purchased in larger quantities

☒	SmartBX - Customer Service Portal	Utility Users	3	Included (Additional users at $295 per user annually)

Initial Term	Total Cloud Services Subscription Fees (excluding taxes)	Payment Conditions
Jan 14, 2025 – Jan 13, 2030	$278,050 ($55,610 annually)	All Cloud Service subscription fees for the Initial Term are due upon signing and invoiced in five (5) equal installments with the first such installment due on the Effective Date and then annually thereafter on January 14.

The subscriptions and services selected in Sections 4 and 5 of this Order Form and the fees therefor are set forth in such sections and shall be invoiced separately pursuant to the applicable terms of the Agreement.

4. SEW Notification Services

The table below sets forth the SEW Notification Services subscriptions purchased by Customer for the Initial Term subject to the Agreement. The fixed monthly and annual fees for such services are due annually in advance.

☒ EMAIL MESSAGING SERVICE

Service Type	Description
Email Service	Up to 175,000 emails per month

Note: Email messaging speed shall be up to 10 emails/second. Higher speeds require additional fees.

☒ TEXT MESSAGING SERVICE

Service Type	Description
Outbound Short Code Messaging	Up to 80,000 outbound SMS messages per year for the following use cases only: i. Alerts to customers to notify of potential high volume or continuous use leaks ii. Alerts to notify a customer that they have reached a self-selected consumption threshold iii. Alerts to notify a customer of the following: eBill is ready, payment reminder, payment delinquent

Note: SMS Text message speed shall be up to 5 messages/second. Higher speeds require additional fees. Shared short code shall be used.

☒ VOICE CALL SERVICE

Service Type	Description
Outbound IVR	Up to 76,000 outbound IVR messages per year for the following use cases only: i. Alerts to customers to notify of potential high volume or continuous use leaks ii. Alerts to notify a customer that they have reached a self-selected consumption threshold iii. 3,000 per month of the 76,000 outbound IVR messages to be dedicated to billing notifications iv. Alerts to notify a customer of the following: eBill is ready, payment reminder, payment delinquent
Voice Call Volume SLA	Standard: Up to 1 call per second

☒ WESMART CHAT & BOT SERVICES

	Service	Price (USD)
☒	**We Smart ChatBot - BASIC** **(Pre-configured static responses only)**	Annual Fee - $12,500

All fixed fee stated in this section shall be payable annually upfront.

5. [Reserved]

6. Terms and Conditions

This Order Form is governed by and incorporates the following documents in effect as of the Effective Date. The documents are listed in order of precedence and are referred to collectively as the "**Agreement**."

No.	Document	Location
1	This Order Form	N/A
2	General Terms and Conditions for Cloud Service	Exhibit A
3	Notification Services Terms and Conditions	Exhibit B
4	Data Retention Policy	Exhibit C
5	Contract Addendum	Exhibit D

7. Acceptance and Authorization

Customer	Smart Energy Water
Signature:	Signature: DocuSigned by: Harman Sandhu B1DE7D7888A04D6...
Name:	Name: Harman Sandhu
Title:	Title: President
Effective Date:	Date: 7/30/2025

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Exhibit A
General Terms and Conditions for Cloud Service

1. **DEFINITIONS.** The following capitalized terms will have the following meanings whenever used in this Agreement (as defined herein).

1.1. "Agreement" means an Order Form (as defined herein) and the documents incorporated into the Order Form.
1.2. "Calculation Period" means that certain period commencing on the date of the most recent establishment or increase of fees and ending on that date immediately prior to applicable price increase taking effect.
1.3. "Customer Data" means any content, materials, data, and information that end users enter into the production system of a Cloud Service.
1.4. "Cloud Service" means any distinct, subscription-based, hosted, supported and operated on-demand solution provided by SEW under an Order Form.
1.5. "CPI Index" means the Consumer Price Index, East Region published by the U.S. Bureau of Labor.
1.6. "Documentation" means Smart Energy Water's ("SEW") then-current technical and functional documentation relating to the Cloud Services which SEW makes available to Customer as part of such service, as updated from time to time.
1.7. "Feedback" means any input, comments, or suggestions regarding SEW's business and technology direction, and the possible creation, modification, correction, improvement or enhancement of the Cloud Service.
1.8. "Implementation" means the process for gathering requirements, configuring, testing, training, and integrating the Cloud Services for Customer's use, as set forth in a Statement of Work (as defined herein).
1.9. "IP Rights" means any and all rights, title and interest in and to the Cloud Services (including without limitation all intellectual property rights therein and all modifications, extensions, customizations, scripts or other derivative works of the Cloud Services provided or developed by SEW) and anything developed or delivered by or on behalf of SEW under the Agreement are owned exclusively by SEW or its licensors. Except as provided in the Agreement, the rights granted to Customer do not convey any rights in the Cloud Services, express or implied, or ownership in the Cloud Services or any intellectual property rights thereto. Customer grants SEW a royalty free, worldwide, perpetual, irrevocable, transferable right to use, modify, distribute and incorporate into the Cloud Services (without attribution of any kind) any suggestions, enhancement request, recommendations, proposals, correction or other feedback or information provided by Customer or any users related to the operation or functionality of the Cloud Services. Any rights in the Cloud Services or SEW's intellectual property not expressly granted herein by SEW are reserved by SEW.
1.10. "Maintenance and Support" means, unless Customer is subscribing to SEW's Max Support Plan, maintenance and support which shall be performed in accordance with SEW's then-current Standard Support Plan.
1.11. "Materials" means any materials (including statistical reports) provided, developed or made available by SEW (independently or with Customer's cooperation) in the course of performance under the Agreement including the delivery of any support or Professional Services to Customer. Materials do not include Customer Data, Customer Confidential Information, or the Cloud Service.
1.12. "Order Form" means an order form executed by SEW and Customer which specifies the Cloud Services to be provided by SEW to Customer.
1.13. "Statement of Work" means a statement of work that (a) expressly references the Agreement, (b) is executed by an authorized representative of each party and (c) sets forth, at a minimum, the Implementation services to be performed by SEW and the related fees to be paid by Customer therefor.
1.14. "User" means individuals who are authorized by Customer to use the Cloud Services pursuant to this Agreement or as otherwise defined, restricted or limited in an Order Form. Users may include but are not limited to an active account registered with the Customer to use the Cloud Services, either from a preexisting account of Customer or as associated with an active utility meter, as set forth in an applicable Order Form.
1.15. "Taxes" means all transactional taxes, levies, and similar charges (and any related interest and penalties) such as federal, state, or local sales tax, value added tax, goods and services tax, use tax, property tax, excise tax, service tax or similar taxes.

2. **CLOUD SERVICE DELIVERY.**

2.1. Right to Access and Use Cloud Service. Subject to the terms and conditions of the Agreement, SEW grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited right to access and use the Cloud Service (including its implementation and configuration) and the Materials during the Term solely for Customer's internal business operations purposes. Customer's subscription includes access to a lower tenant and a production tenant. The terms and conditions of Section 3 apply only to the production tenant.
2.2. Restrictions on Use. Customer may allow its Users to use the Cloud Services for the purpose set forth in Section 2.1, and Customer is responsible for their compliance with the Agreement and Customer's applicable Order Form. Customer agrees that it will comply and will ensure that the Users comply with any applicable restrictions or limitations. The terms of the Agreement shall also apply to updates and upgrades subsequently provided by SEW to Customer for the Cloud Services. Customer will not permit any third parties to access and use the Cloud Service other than Users. Usage is limited to the volumes set forth in the Order Form. Access credentials for the Cloud Service may not be used by more than one individual. Customer will monitor its own use of the Cloud Service and report any use in excess of the usage and metrics identified in the Order Form. SEW may monitor use to verify compliance with usage metrics, volumes, and the Agreement. Customer will be responsible for breaches of the Agreement by Users. Customer may not, and may not cause or permit others to: (a) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish, download, or copy any part of the Cloud Services (including data structures or similar materials produced by programs); (b) access or use the Cloud Services to build or support, directly or indirectly, products or services competitive to SEW; (c) license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Cloud Services to any third party except as permitted by the Agreement; (d) remove or modify any program markings or any notice of SEW's proprietary rights; (e) copy, rent, lease, distribute, pledge, assign or otherwise transfer or allow any lien, security

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interest or other encumbrance on the Cloud Service; (f)perform or disclose any benchmarking, availability, vulnerability, penetration, network discovery, port and service identification, or performance testing of the Cloud Services without SEW's prior written approval; or (g) hack, manipulate, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to the Cloud Services or its related systems, hardware or networks or any content or technology incorporated in any of the foregoing. Customer will (i) use commercially reasonable efforts to prevent unauthorized access to or use of the Cloud Service and notify SEW promptly of any such unauthorized access or use, and (ii) use the Cloud Service only in accordance with the Documentation and all applicable laws, rules and regulations. In addition to other rights that SEW has in the Agreement, SEW has the right to take remedial action if any of Customer's obligations in this Section 2 are violated, and such remedial action may include suspending access to the Cloud Services.

2.3. Third Party Web Services. The Cloud Service may include integrations with web services made available by third parties (other than SEW or its affiliates) that are accessed through the Cloud Service and subject to terms and conditions with those third parties. These third party web services are not part of the Cloud Services and the Agreement does not apply to them. SEW is not responsible for the content of these third party web services, and any fees levied by such third parties for access and integration with their services are not included in this Agreement.

2.4. Mobile Access. Users may access certain Cloud Services through mobile applications obtained from third-party websites such as Android or Apple app stores. The use of mobile applications may be governed by the terms and conditions presented upon download/access to the mobile application and not by the terms of the Agreement.

3. **UPDATES AND SERVICE LEVELS.**

3.1. Maintenance. SEW will provide regular Maintenance and Support, including making available to Customer any modifications, bug-fixes, or security updates to the Cloud Service that SEW generally makes available to its customers, for no additional fee ("Updates").

3.2. Service Level Availability. SEW will use commercially reasonable efforts to maintain an average monthly Availability of the Cloud Service of 99.5%. "Availability" is calculated as follows: *Availability = ([number of minutes in month] - [number of minutes per month the Cloud Services is Unavailable]) / [number of minutes in month].*
"Unavailable" means the Cloud Service is not available for access and use through Customer's Internet connection, excluding any performance issues: (i) caused by factors outside of SEW's reasonable control, including, but not limited to, any force majeure event or Internet access or related problems beyond the demarcation point of SEW; (ii) that result from any actions or inactions of Customer or any third party; (iii) that result from Customer's equipment, software or other technology and/or third-party equipment, software or other technology (other than third-party equipment within SEW's direct control); (iv) that result from any planned maintenance as described in this Agreement or (v) arising from SEW's suspension or termination of Customer's right to use the Cloud Services.

3.3. Modifications to Cloud Services. SEW may modify the Cloud Service (including Maintenance and Support), provided that SEW shall not materially degrade the core functionality of the Cloud Service during the Term. SEW shall provide Customer with reasonable advance notice of modifications to the functionality of the Cloud Service.

4. **FEES.**

4.1. Payment Terms. Customer shall pay all the fees as they become due as set forth in the Agreement. The fees set forth in the Order Form are subject to certain adjustments set forth in this Agreement, but in no event shall these fees decrease. Customer shall pay any applicable fees in full within thirty (30) days from the invoice date (unless otherwise specified in the Order Form and/or Contract Addendum). All fees are non-refundable except as otherwise expressly stated herein. If Customer fails to pay an invoice in accordance with the foregoing terms, Customer shall also pay (i) interest on the unpaid amount at one and one-half percent (1.5%) per month (or the maximum allowable under the law, whichever is less); and (ii) any collections or legal fees incurred by SEW in order to collect payment of the corresponding invoices. SEW's invoices shall be deemed correct and acceptable to Customer unless Customer advises SEW of disputed items within thirty (30) days of receipt of such invoice. In addition to any other available remedies, if Customer's account is sixty (60) days or more overdue, SEW may, without prior notice to Customer, suspend Customer's use of the applicable Cloud Service until such payments are paid in full. Customer agrees that SEW shall not be liable to Customer or other third party for any suspension pursuant to this Section.

4.2. True Up. At any time, SEW may conduct a true-up review comparing (i) the number of actual subscriptions in use and (ii) the number of subscriptions purchased in the Order Form and in the event the former exceeds the latter ("Additional Subscriptions"), Customer shall be required to pay for such Additional Subscriptions at the then-current rates.

4.3. Taxes. SEW shall separately state on each invoice all Taxes, levies or duties. Subject to applicable law, Customer shall be responsible for any taxes and/or duties related to such invoices.

4.4. Certain Adjustments. At any time during the Initial Term upon written notice to Customer, SEW may increase the fees charged to Customer (including, without limitation, annual and monthly subscriptions, one-time, and/or volume-based fees) by a percentage equal to the greater of: (i) the change in the CPI Index calculated on a compounding basis for the Calculation Period and (ii) five percent (5%) per year calculated on a compounding basis during the Calculation Period. In the event this Agreement automatically renews for the initial Renewal Term (and any subsequent Renewal Term) as contemplated by Section 11.1, the then-applicable fees charged to Customer (including, without limitation, annual and monthly subscriptions, one-time, and/or volume-based fees) shall automatically and without any further action of the Parties increase by fifteen percent (15%).

5. **INTELLECTUAL PROPERTY RIGHTS.**

Customer Data. As between SEW and Customer, Customer owns the Customer Data. Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws Customer retains all rights in and related to Customer Data. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Customer Data, and for obtaining all rights related to Customer Data required by SEW to provide the Cloud Services. Customer hereby grants to SEW: (a) a non-exclusive, worldwide, royalty-free, fully paid

up, non-sublicensable (except to SEW's contractors and service providers), non-transferable (subject to Section 12.3) right and license to copy, distribute, display, create derivative works of and otherwise use the Customer Data (i) to perform its obligations under this Agreement, (ii) to internally improve its products and services and (iii) to create aggregated and/or anonymized data from such Customer Data (the "Aggregated Data"); and (b) a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid up, sublicensable (through multiple tiers), transferable right and license to copy, distribute, display, create derivative works of and otherwise use the Aggregated Data. Customer reserves any and all right, title and interest in and to the Customer Data other than the rights and licenses expressly granted to SEW in this Section 5.1. Customer acknowledges and agrees that in connection with the provision of the Cloud Services, SEW may store and maintain Customer Data for a period of time consistent with SEW's standard business processes. Following expiration or termination of the Agreement or a Customer account, if applicable, SEW may deactivate the applicable Customer account(s) and delete any data therein subject to compliance with applicable Florida law and this Agreement. Customer grants SEW the right to host, use, process, display and transmit Customer Data to provide the Cloud Services pursuant to and in accordance with the Agreement. Customer shall allow SEW's artificial intelligence platform to "learn" from the transactions it processes. SEW shall protect the data by anonymizing and aggregating any and all data used for the "learning" and development of its artificial intelligence platform. SEW may use Aggregated Data alone or in combination with data from other sources to create reports, evaluations, benchmarking tests, studies, analyses, and to improve, update, promote and maintain the Cloud Services in any manner.

5.1. Cloud Services. SEW owns and retains all Intellectual Property Rights, title, and interest in and to the Documentation, Materials, and Cloud Services, and any professional services, design contributions, related knowledge or processes, whether or not developed for Customer (collectively "SEW IP"). Nothing in this Agreement will be construed to grant Customer any ownership in the SEW IP. Customer recognizes that the Cloud Services and its components are protected by copyright, patent, and/or other laws. SEW grants no, and reserves any and all, rights other than the rights expressly granted to Customer under the Agreement with respect to the Cloud Services. Customer shall execute such documentation and take such other steps as is reasonably necessary to secure SEW's title over such rights. With respect to the Cloud Service, Customer shall not (i) copy, translate, disassemble, decompile, make derivative works, or reverse engineer the Cloud Service, Documentation, or Materials (or attempt any of the foregoing); (ii) enter, store, or transfer any content or data on or via the Cloud Service that is unlawful or infringes any Intellectual Property Rights; (iii) circumvent or endanger the operation or security of the Cloud Service; and/or (iv) remove SEW's copyright and authorship notices.

5.2. Feedback. Customer hereby grants SEW a perpetual, irrevocable, unrestricted, worldwide license to use any Feedback, without compensation or any obligation to report on such use, and without any other restriction. Such rights will include, without limitation, the right to exploit Feedback in any way and the right to grant sublicenses (through multiple tiers). Notwithstanding the provisions of Article 6 (*Confidential Information*) below, Feedback will not be considered Customer's Confidential Information.

6. **CONFIDENTIAL INFORMATION.**

6.1. Confidential Information. "Confidential Information" refers to the following types of material or content one party to this Agreement ("Discloser") discloses to the other ("Recipient"): (a) any information Discloser marks or designates as "Confidential" at the time of disclosure; and (b) any other nonpublic, sensitive information disclosed by Discloser including, but not limited to code, inventions, know-how, business, technical, and financial information, or other information which should reasonably be known by the Recipient to be confidential at the time it is disclosed, due to the nature of the information and the circumstances surrounding such disclosure. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in Recipient's possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient's improper action or inaction; or (iv) is rightfully obtained by Recipient from a third party without breach of any confidentiality obligations or (vi) is a public record as defined under applicable Florida law..

6.2. Nondisclosure. Recipient will not use Confidential Information of the Discloser for any purpose other than to exercise its rights or perform its obligations under this Agreement (the "Purpose"). Recipient: (a) will not disclose Confidential Information of the Discloser to any employee or contractor of Recipient unless such person needs access in order to facilitate the Purpose and executes a written agreement with Recipient with terms no less restrictive than those of this Article 6; and (b) will not disclose Confidential Information of the Discloser to any other third party without Discloser's prior written consent. Recipient will protect Confidential Information of the Discloser with the same degree of care it uses to protect its own confidential information of a similar nature, but with no less than reasonable care. Recipient will promptly notify Discloser of any misuse or misappropriation of Confidential Information of the Discloser that comes to Recipient's attention. Notwithstanding the foregoing, Recipient may disclose Confidential Information of the Discloser as required by applicable law or by proper legal or governmental authority. Recipient will give Discloser prompt notice of any such legal or governmental demand and reasonably cooperate with Discloser in any effort to seek a protective order or otherwise to contest such required disclosure, at Discloser's expense.

6.3. Injunction. Recipient agrees that breach of this Article 6 may cause Discloser irreparable injury, for which monetary damages may be inadequate, and in addition to any other remedy, Discloser will be entitled to seek injunctive relief against such breach or threatened breach, without proving actual damage.

6.4. Termination & Return. Upon expiration or termination of this Agreement, Recipient will return to the Discloser all copies (excepting one (1) copy archived for purposes of Recipient's back-up processes) of Confidential Information of the Discloser or certify, in writing, the destruction thereof.

6.5. Retention of Rights. This Agreement does not transfer ownership of Confidential Information or grant a license or any other right thereto. Discloser will retain all right, title, and interest in and to all of its Confidential Information.

7. **DATA PRIVACY & SECURITY.**

7.1. Data Security. Each party will be responsible for establishing and maintaining its own data privacy and information security

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policies, including physical, technical, administrative, and organizational safeguards to ensure the security and confidentiality of Customer Data; protect against any anticipated threats or hazards to the security of Customer Data; protect against unauthorized disclosure, access to, or use of Customer Data; ensure the proper disposal of Customer Data; and ensure that all employees, agents, and subcontractors, if any, comply with the above.

8. **REPRESENTATIONS & WARRANTIES.**

8.1. By SEW. SEW represents and warrants that it owns the Cloud Services and has the power and authority to grant the rights in this Agreement without the further consent of any third party. In the event of a breach of the warranty in this Section **8.1**, SEW, at its own expense and election, will promptly take the following actions: (i) secure for Customer the right to continue using the Cloud Services; (ii) replace or modify the Cloud Services to make it non- infringing, provided such modification or replacement will not materially degrade any core functionality; or (iii) refund the prorated subscription fee paid for the Cloud Services for every month remaining in the Term, following the date after which Customer is required to cease use of the Cloud Services. The preceding sentence states SEW's sole obligation and liability, and Customer's sole remedy, for breach of the warranty in this Section **8.1** and for potential or actual infringement by the Cloud Services. SEW's representations and warranties herein will not apply to the extent any infringement arises out of any conditions listed in Section 9.1(a)-(f) below.

8.2. By Both Parties. Each party represents and warrants that (a) it has the full right and authority to enter into, execute, and perform its obligations under this Agreement, (b) no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required hereunder, (c) the execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party; and (c) this Agreement constitutes a legal, valid and binding obligation when signed by both Parties.

8.3. By Customer. Customer represents and warrants to SEW that Customer owns all rights, title, and interest in and to the Customer Data, or that Customer has otherwise secured all necessary rights, consents, and permissions in the Customer Data as may be necessary to permit the access, use, and distribution thereof as contemplated by this Agreement including its processing by SEW.

8.4. Warranty Disclaimers. Except for the express warranties in Sections 8.1 and 8.2 above, SEW MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE. SEW does not warrant that the Cloud Services will perform without error or that it will run without immaterial interruption. SEW provides no warranty regarding, and will have no responsibility for, any claim arising out of: (a) a modification of the Cloud Services made by anyone other than SEW, unless SEW approves such modification in writing; or (b) use of the Cloud Services in combination with any operating system, hardware, software or other third-party materials not authorized or specifically forbidden in the Specifications or Documentation. SEW shall not be responsible for any issues related to the performance, operation or security of the Cloud Services that arise from the Customer Data.

9. **INDEMNIFICATION.**

9.1. Indemnification by SEW. SEW will defend Customer from third party claims that the Cloud Services infringes or misappropriates a third party's intellectual property right and will indemnify and hold Customer harmless from any damages, liabilities, costs, and expenses (including reasonable attorneys' fees at trial and appellate levels and in any forums) awarded by a court or incurred by Customer provided that Customer (i) promptly notifies SEW of the claim; (ii) gives SEW reasonable control of the defense and settlement of the claim; and (iii) renders any commercially reasonable assistance requested by SEW in defense or settlement of the. SEW's obligations set forth in this Section 9.1 do not apply to the extent that any claim arises out of: (a) Customer's breach of this Agreement; (b) revisions to the Cloud Services made without SEW's written consent; (c) Customer's failure to incorporate Upgrades that would have avoided the alleged infringement, provided SEW offered such Upgrades without charges not otherwise required pursuant to this Agreement; (d) SEW's modification of Cloud Services in compliance with Customer's specifications; (e) unauthorized use of the Cloud Services by third parties; or (f) use of the Cloud Services with hardware or software not provided by or approved of by SEW.

9.2. Indemnification by Customer. Subject to Florida law and the provisions of this Agreement including any Addendums, Customer will defend SEW and its officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns from any damages, settlement amounts, liabilities, costs or expenses, including attorneys' fees that are payable to any third party or incurred by SEW arising from any third-party claim, suit, or proceeding arising out of (a) SEW's authorized use of the Customer Data; (b) any use of the Cloud Services by Customer and/or its Users in violation of this Agreement; and/or (c) any activities by Customer that infringe any third-party's intellectual property rights.

9.3. Indemnification Procedure. If an indemnified party becomes aware of any matter it believes it should be indemnified under Section 9.1 or Section 9.2, as applicable, involving any claim, action, suit, investigation, arbitration or other proceeding against the indemnified party by any third party (each an "Action"), the indemnified party will give the other party prompt written notice of such Action. The indemnified party will cooperate, at the expense of the indemnifying party, with the indemnifying party and its counsel in the defense and the indemnified party will have the right to participate fully, at its own expense, in the defense of such Action with counsel of its own choosing. Any compromise or settlement of an Action will require the prior written consent of both Parties hereunder, such consent not to be unreasonably withheld or delayed.

10. **LIMITATION OF LIABILITY.**

10.1. Liability Cap. UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS) EXCEED THE AGGREGATE FEES PAID OR PAYABLE BY CUSTOMER TO SEW UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY.

10.2. Exclusion of Consequential Damages. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING LOST PROFITS OR LOST REVENUE, DATA, GOODWILL, OR REPUTATION.

10.3. Clarifications & Disclaimers. THE LIABILITIES LIMITED BY THIS SECTION 10 APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT PRODUCT LIABILITY, OR OTHERWISE; EVEN IF SEW AND/OR CUSTOMER IS ADVISED IN ADVANCE OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE; AND EVEN IF SEW'S AND/OR CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. If applicable
law limits the application of the provisions of this Section 10, SEW's and CUSTOMER's liability will be limited to the maximum extent permissible by law. For the avoidance of doubt, SEW's liability limits apply to SEW's affiliates, parents, agents, sponsors, directors, officers, employees, consultants, and other representatives.

10.4. Exceptions to Limitation of Liability. The foregoing limitations do not apply to any liability arising from (i) either Party's indemnification obligations; (ii) either Party's confidentiality obligations; (iii) death or bodily injury arising from either party's gross negligence or willful misconduct; and/or (iii) Customer's unauthorized uses of any Cloud Service and/or failure by Customer to pay any fees due under the Agreement. Provided, however, that the Customer shall not be liable for punitive damages and/or special damages in any instance. Provided, further, Customer shall only be responsible for consequential damages arising out of account reconciliation matters only.

11. **TERM & TERMINATION.**

11.1. Term. The Initial Term of the Agreement shall commence January 14, 2025, and end on January 13, 2030. Thereafter, unless Customer has entered into a separate agreement with SEW regarding renewal of the Cloud Services prior to the expiration of the then-current term, the Agreement shall automatically renew for additional one (1)-year periods (each such period, a "Renewal Term," together with the Initial Term the "Term"), unless either party provides written notice of non-renewal to the other party at least ninety (90) days' prior to the end of the then-current term.

11.2. Termination. Either party may terminate this Agreement: (a) upon written notice to the other party if such other party has materially breached this Agreement and fails to cure such breach within thirty (30) days of written notice; or (b) upon written notice to the other party if such other party becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or assignment for the benefit of creditors (which, if involuntary, is not dismissed within sixty (60) days of its institution).

11.3. Effects of Termination. Upon expiration or termination of the Agreement or any Order Form for any reason: (i) SEW may immediately cease providing the Cloud Services; (ii) except in the case of a termination due to SEW's breach, any and all payment obligations of Customer for the then-current term under this Agreement will become due immediately; (iii) subject to applicable Florida law, within thirty (30) days after such expiration or termination, each party will return or destroy the tangible embodiments of the other party's Confidential Information in its possession and will not retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirement. SEW shall delete, destroy, retain, or return Customer Data as required by this Agreement or applicable law. The following provisions will survive termination or expiration of the Agreement: (a) any obligation of Customer to pay fees incurred before termination (in addition to any fees owed under Section 11.3 above, if applicable) and (b) Sections 1, 4, 5, 6, 8.3, 9, 10, 11 and 12. A termination or expiration of the Agreement does not affect other agreements between the parties. There shall be no early termination fee due to SEW if CUSTOMER terminates this Agreement pursuant to Section 11.2.

12. **GENERAL PROVISIONS.**

12.1. Suspension. SEW may suspend Customer's or Users' access to, or use of, the Cloud Services if SEW believes that (a) there is a significant threat to the functionality, security, integrity, or availability of the Cloud Services or any content, data, or applications in the Cloud Services; (b) Customer or Users are accessing or using the Cloud Services to commit an illegal act; or (c) to comply with laws or regulations applicable to SEW. When reasonably practicable and lawfully permitted, SEW will provide Customer with advance notice of any such suspension. SEW will use reasonable efforts to re-establish the Cloud Services promptly after SEW determines that the issue causing the suspension has been resolved. During any suspension period, SEW will make Customer Data (as it existed on the suspension date) available to Customer. Any suspension under this Section shall not excuse Customer from Customer's obligation to make payments under this Agreement.

12.2. Independent Contractors. The Parties are independent contractors and will so represent themselves in all regards. Neither party is the agent of the other, and neither may make commitments on the other's behalf.

12.3. Force Majeure. SEW shall not be liable for loss, delay, nonperformance (including failure to meet the service level commitment) to the extent resulting from any force majeure event, including, but not limited to, acts of God, strike, riot, fire, explosion, flood, earthquake, natural disaster, terrorism, act of war, civil unrest, criminal acts of third parties, failure of the Internet, governmental acts or orders or restrictions, failure of suppliers, labor stoppage or dispute (other than those involving SEW employees), or shortage of materials, provided that SEW uses reasonable efforts, under the circumstances, to notify Customer of the circumstances causing the delay and to resume performance as soon as possible.

12.4. Assignment & Successors. Neither party may assign this Agreement or any of its rights or obligations hereunder without the other party's written consent. Except to the extent forbidden herein, this Agreement will be binding upon and inure to the benefit of the Parties' respective successors and permitted assigns.

12.5. Severability. To the extent permitted by law, the Parties waive any provision of law that would render any clause of this Agreement invalid or unenforceable. In the event that a provision herein is held to be invalid or unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by law, and the remaining provisions of this Agreement will continue in full force and effect.

12.6. No Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach hereof will constitute a waiver of any other breach of this Agreement.

12.7. Choice of Law & Jurisdiction: This Agreement will be governed by the laws of the State of Florida, without reference to any conflicts of law principles. The Parties consent to the personal and exclusive jurisdiction of the federal and state courts of Polk County, Florida. The Uniform Computer Information Transactions Act does not apply to the Agreement or to orders placed under it.

12.8. Conflicts. Should the Agreement conflict with any other agreements, the Agreement will govern, provided, however, the terms of the City of Winter Haven Contract Addendum shall take precedence over any conflicting terms of this Agreement.

12.9. Statute of Limitations. Except for claim(s) as to ownership or title to intellectual property rights, breach of the protections of the Confidential Information, the right of SEW to bring suit for payments due hereunder, or a party's failure to provide the indemnity obligations herein and its subject matter, either party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one (1) year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claims.

12.10. Construction. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.

12.11. Entire Agreement. The Agreement constitutes the complete and exclusive statement of the agreement between SEW and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them.

12.12. Counterparts. The Agreement may be executed in counterparts, each of which shall be an original and together will constitute a single instrument. Electronic signatures via DocuSign or any other form as determined by SEW are deemed original signatures.

12.13. Modification. Under no circumstances will the terms, conditions or provisions of any purchase order issued by Customer in connection to the Agreement be deemed to modify, alter or expand the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of SEW to object to such terms, provisions, or conditions.

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Exhibit B
Notification Services Terms and Conditions

In addition to, and without limiting any of the General Terms and Conditions for Cloud Services (or, in the event Customer purchased its cloud service subscription through a SEW authorized reseller, the terms and conditions of Customer's applicable subscription agreement), the below terms and conditions apply to Customer's subscription to and SEW's provision of Notification Services.

1. Definitions

1.1. "Monthly Uptime Percentage" means the difference between 100% and the percentage of time during which the Services (as defined herein) are unavailable.

1.2. "Services" means the notification services for the Cloud Service utilized to establish contact between the Customer and end user of the SEW Cloud Services, which include, but are not limited to, SMS text messaging, email, and interactive voice response (IVR) services.

1.3. "Cloud Services" means Customer's deployment of the Cloud Service platform, or other subscription-based, hosted, supported and operated on-demand solution provided by SEW under an Order Form.

2. Scope and General Terms

2.1. Customer shall only use the Services to use and make the Services available to end users in connection with the use of Cloud Services as contemplated in the Order Form.

2.2. Customer agrees that:

a) Customer shall not transfer, resell, lease, license, or otherwise make available the Services (or Cloud Services) to third parties or offer it on a standalone basis, or make any representation, warranty, or guarantee to any end user or third party on behalf of SEW.
b) SEW shall be entitled to use any Customer data that is necessary to provide the Services.
c) Customer's use of the Services will not violate the terms of the Agreement or applicable law.
d) Customer shall not use the Services or Cloud Services to create, train, or improve (director or indirectly) a substantially similar product or service.
e) Customer shall not reverse engineer, decompile, disassemble, or otherwise create, attempt to create or derive, or permit or assist anyone else to create or derive the source code of any Services or Cloud Services.

2.3. SEW shall use commercially reasonable efforts to ensure the Services are available at a Monthly Uptime Percentage of 99.5%, notwithstanding any unavailability or performance issues of the Services caused by or as a result of the following:

a) Factors that are outside of SEW's reasonable control, including, without limitation, any force majeure event, telecommunications provider-related problems or issues, internet access or related problems occurring beyond the point in the network where SEW maintains access and control of the Services.
b) Any actions or inactions of Customer or any third party.
c) Any Customer applications, equipment, software, or other technology, third party equipment, software, etc. not authorized for use with the Services.
d) Routine or scheduled maintenance for which SEW will provide at least twenty-four (24) hours of notice.
e) Problems or issues related to alpha, beta, or not otherwise generally available in SEW features or products.

2.4. Services shall commence at the rates and volumes selected by Customer in the Order Form.

a) For the email message service, in the event that Customer exceeds the number of emails per month selected, SEW shall automatically escalate Customer to the next service tier and corresponding rates. Customer shall thereafter be invoiced according to the rates set forth for the escalated tier for the remainder of the applicable term.
b) For email, text message, and voice call services, at any time Customer may contact SEW to request that its service level be lowered to a lower tier provided however that Client may only make such a request once during any twelve (12)-month period. Customer shall not be entitled to any credits or refunds for unused volumes (regardless of moving between service level tiers).

3. Warranty and Liability

3.1. **DISCLAIMER OF WARRANTY**. THE SERVICES ARE PROVIDED "AS-IS," EXCLUSIVE OF ANY WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED. SEW DOES NOT WARRANT THAT THE SERVICES ARE OR WILL BE ERROR-FREE OR MEET ALL CUSTOMER REQUIREMENTS. WITHOUT LIMITING THE FOREGOING, SERVICES MAY BE SUBJECT TO LIMITATIONS OF THE TELECOMMUNICATIONS PROVIDER, HOSTING ENVIRONMENT, DELAYS, INTERNET SERVICE PROVIDER, THIRD PARTIES, ACTIONS OR INACTIONS OF THE CUSTOMER, AND OTHER PROBLEMS INHERENT TO THE USE OF MASS-MARKET NOTIFICATION SERVICES AND ELECTRONIC COMMUNICATIONS. SEW IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, DELETIONS, LOSS OF DATA, DATA CORRUPTION, THIRD-PARTY PUBLICATION, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS NOT CAUSED BY SEW OR OUTSIDE OF SEW'S REASONABLE CONTROL. TO THE EXTENT SUCH DISCLAIMER CONFLICTS WITH APPLICABLE LAW, THE SCOPE AND DURATION OF ANY APPLICABLE WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. SEW SHALL NOT BE LIABILE AND WILL HAVE NO OBLIGATION TO INDEMNIFY CUSTOMER FOR END USER DATA OR ANY OTHER PERSONALLY IDENTIFIABLE INFORMATION SENT TO SEW.

3.2. **Recordings and Communications Monitoring**. In the event Customer records or monitors any SMS messages, IVR communications, or other communications using the Services, then Customer represents and warrants that it shall comply with all applicable laws prior to doing so at all times. SEW makes no representations or warranties with respect to recording or monitoring telephone calls/IVR communications, SMS messages, or other communications, and recommends that Customer always secure prior consent to record or monitor communications using the Services. Customer acknowledges that these representations, warranties, and obligations are essential to SEW's ability to provide the Services, and further agrees to indemnify SEW and its affiliates or providers in the event of any acts or omissions in connection with recording or

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monitoring IVR communications, SMS messages, or other communications, whether such claims arise under contract, tort, statute, or other legal theory.

4. Additional Terms

4.1. **Short Codes**. If Customer utilizes a short code with SEW as a part of the Services, Customer:

a) Shall not change the short code use case without first having such new use case approved by SEW or the applicable provider.

b) Shall stop sending additional messages to any party that replies by texting “STOP” (or the equivalent) to the short code, except for a single text message confirming that such party has been successfully opted out of the short code.

c) Shall follow all applicable rules, regulations, laws, statutes, or guidelines set by state, local, or federal legal authorities, or as imposed by SEW or its affiliates, providers, etc. pertaining to the use of short codes or voice recordings.

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Exhibit C
Data Retention Policy

1) Data Retention Policy

a) Introduction

i) Smart Energy Water ("SEW")'s policy is to maintain complete and accurate records for the usage, billing, behavior, or any of the specified types of data ("Data") of Customer and its Users, for the duration described for historical reference, contractual or legal requirements, or for any other purposes as set forth in this Data Retention Policy (this "Policy"). The types of Data stored and subsequent durations for each type, described in the Retention Summary set forth in Section 1(h) below, are the recommended and standard retention periods based on legal requirements and practical considerations. SEW offers to store Data for extended periods at an additional fee.

ii) Data retention includes, but is not limited to, paper and electronic records, documentary materials, Customer Data, personally identifiable information, billing records, usage information, etc. Such information is managed and maintained in a manner that protects the integrity of the Data, while ensuring appropriate access for the durations described above.

iii) Upon expiration of the above retention periods, such data shall be destroyed, deleted, or otherwise disposed of according to standard industry guidelines and in compliance with legal requirements, except for those records pertaining to (1) matters under investigation or those matters that are the subject of any claim or litigation, and (2) matters that are anticipated to be the subject of reasonably foreseeable investigation, claim, or litigation.

b) Definitions

i) "Audit Logs" means recordings of key system events, timestamps, and other similar records that maintain evidence of any processes or activities.

ii) "Billing Data" means information regarding the billing information of customers, including credit card information, security codes, expiration dates, billing addresses, names of customers, etc.

iii) "Billing Summaries" means information regarding the costs or charges relating to a customer's usage of utilities maintained over monthly billing periods.

iv) "Customer Data" means personally identifiable information of a Customer's users, which may include name, address, personal Usage information, etc.

v) "Investigation" means business or legal process which requires the retention, examination, or review of any Data.

vi) "Notifications" means logs of the information events (email, IVR, SMS text messaging) sent by Customer y and received by a User.

vii) "Outages" means logs of outage events reported via OMS to the Services, by either the Customer, or if approved, or the User.

viii) "Retention" means storage of Data on either local, cloud-based, or archive storage or servers.

ix) "Usage" means any customer's use of a utility as tracked and maintained by the Services.

x) "User Behavior" means the interaction of Customer's customers on the portal or mobile application, which may include log-on periods, active periods, interactions with particular modules, clicks, etc.

c) General

i) SEW ensures that necessary records, documents, or Data are adequately protected and maintained, and additionally, that such records, documents, or Data are properly disposed of.

ii) SEW shall not use Customer Data except as necessary to provide the Services, or as permitted by the Agreement, or as necessary to comply with the law or binding order of a governmental body.

d) Cloud-Based Storage

i) In maintaining the Data, SEW shall utilize its cloud-based scalable storage solutions to store and display historical usage data, billing information, payment history, etc. SEW shall utilize industry standard methodologies, which shall ensure business continuity, continuous retention for the periods described, data recovery, and availability for its Users.

e) Archiving and Backups

i) SEW shall utilize similar industry standard solutions for archiving, restoring, and backing up Data. Incremental Data (daily usage, user behavior, notifications, outages) is recorded nightly, and full Data backups are executed over the weekend. Data shall be retained in both cloud-based local storage form, as well as array-based replication form offsite to be utilized as back-ups or archives in the event of system failure of the local Cloud-based storage.

f) Destruction and Purging of Data

i) Data that is personal or confidential in nature shall be disposed of according methodologies agreed upon by and between the parties in writing.

ii) Electronic Data shall be subject to secure electronic deletion.

iii) Physical or paper documents shall be shredded using secure consoles through which waste shall be properly screened for disposal.

iv) Specific deletion or destruction processes shall be carried out by an employee of SEW or by an internal or external service provider employed for the purposes of such proper and compliant disposal of Data.

v) Data which has been inactive for a period of twenty-four (24) months shall be deleted.

g) Litigation or Investigation

i) In the event that SEW becomes involved in any litigation or business event that requires access to Data, such Data may need to be archived beyond its active use or as required by law.

ii) Documents shall be retained in the event that they are subject to matters under investigation or those that are subject to any claim or litigation, or those matters that are anticipated to be the subject of reasonably foreseeable investigation, claim, or litigation.

h) Retention Summary

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i) SEW, for the purposes of historical reference, contractual or legal requirements, or other requirements as a part of its delivery and maintenance of Services or Cloud Services to Customer, shall retain the following types of Data for the durations set forth, and pursuant to the terms set forth in this Data Retention Policy.

Data Type	Description	Duration in Months
Usage	Monthly Read	24
	Daily Read	12
	Hourly Read	6
	15-minute Read	3
Billing Data/Summary	Overview of Past Bills	24
User Behavior	User Interactions with Portal	12
Notifications	Text Message, IVR, Email Logs	6
Audit Logs	Timestamps, Recordings of Key Events	6
Bill PDF Storage	* Add-on Feature	0
Outages	History of Reported Outages	12

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CITY OF WINTER HAVEN CONTRACT ADDENDUM

This *City of Winter Haven Contract Addendum* ("Addendum") is agreed upon by the parties and appended to the agreement(s), purchase(s), order(s), form(s), service(s), package(s), term(s), and contract(s) identified below by reference by title (together collectively the "Contract" or the "Contract Documents"), between the City of Winter Haven, Florida, a Florida municipal corporation (the "City") and the following Vendor (collectively, the "Parties"):

Name of Vendor: Smart Energy Systems, Inc., a Delaware corporation, authorized to do business in the State of Florida, d/b/a Smart Energy Water
15495 Sand Canyon Avenue, Suite 100
Irvine, CA 92618

Name of Contract: Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025.

§ 1. Initial Provisions and Fact Findings.

The Parties agree upon the following initial provisions and factual findings:

(a) The City is authorized to enter into the Contract and this Addendum as a matter of home rule under Section 2(b) of Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes. The resulting contract, articulated by the Contract Documents as a whole, is subject to all budgeting and legal requirements of the *Code of Ordinances of the City of Winter Haven, Florida*, the *Charter of the City of Winter Haven, Florida* and the Florida Statutes.

(b) Copies of the Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025 are made a part hereof by reference.

(c) Notwithstanding anything in the Contract, Vendor and the City acknowledge and agree that the Effective Date of the Contract and this Addendum is the date that the governing body of the City approves and enters into the Contract and this Addendum at a duly called open public meeting. The City hereby represents and warrants that as of the date the City enters into the Contract and this Addendum, the City has secured all requisite approvals contemplated by the foregoing sentence.

(d) Vendor represents that it is authorized to transact business in the State of Florida.

(e) Vendor and the City acknowledge and represent that certain amendments to the Contract are desirable and necessary in order to comply with applicable Florida law.

(f) Vendor acknowledges and agrees that the Contract and this Addendum are

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governed by Florida law.

(g) Vendor and the City acknowledge that the City's entry into the Contract, remission of payments, and performance thereunder, is contingent upon the terms and conditions set forth in this Addendum.

(h) Vendor acknowledges and represents that, in consideration for the City's entry into the Contract and this Addendum, and the City's performance thereunder, Vendor has agreed to provide and perform its obligations and services in strict accordance with Florida law, including by way of explanation, but not limitation, Chapters 119, 267, and 668 of the Florida Statutes.

(i) Vendor represents that, prior to executing this Addendum, it has had an opportunity to review this Addendum with its legal counsel and fairly negotiated this Addendum at arm's length.

(j) The City acknowledges that the Contract and this Addendum are in the best interest of the City of Winter Haven and its citizens and residents, and execution of the Contract and this Addendum will promote the health, safety and welfare of the citizens and residents of the City of Winter Haven, Florida.

(k) Vendor and the City acknowledge, represent, and agree that mutual consideration has been given, receipt of which is duly acknowledged, in consideration and exchange for entry into this Addendum.

§ 2. Definitions.

Words used in the Contract and Addendum, as well as any and all attachments and exhibits incorporated therein and made a part of the Contract Documents, shall possess their everyday and ordinary meanings, *provided however*, that where one of the following listed terms is used, such term shall possess its corresponding meaning, as follows:

Contract Documents means the Order Form for Smart Energy Water Cloud Services Subscription dated 7/30/2025, 2025 and City of Winter Haven Contract Addendum.

Day(s) means calendar day(s) unless specifically stated otherwise.

Calendar Day(s) means any day(s) in a 365-day calendar year.

Business Day(s) means that (or those) calendar day(s) which is (or are) not a Saturday, a Sunday, or a holiday where the City's City Hall is closed for the transaction of ordinary business (a "City Holiday").

§ 3. Primacy of Addendum.

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This Addendum contains specific terms and conditions that are applicable to purchases of goods and services made by the City of Winter Haven, Florida, a Florida municipal corporation. Notwithstanding anything in the Contract Documents to the contrary, the terms of this Addendum shall be primary and shall control over any expressly conflicting background term and condition in the Contract Documents.

§ 4. Calculation of Time.

Unless expressly specified otherwise in the Contract Documents, the calculation of any time period expressed in days or the determination of the number of days that have passed between events or occurrences shall be based on calendar days and every calendar day of the period shall be counted including intermediate Saturdays, Sundays and City Holidays. Unless expressly specified otherwise specified in the Contract Documents, any time period expressed in days that is prescribed in or by the Contract Documents shall commence on the day immediately following the event triggering such time period and shall expire at midnight on the last day of the same, provided that if the last day of the period is a Saturday, Sunday, or City Holiday, the period continues to run until the next day that is not a Saturday, Sunday, or City Holiday. Time periods expressed in the Contract Documents that are not contingent upon an action or event shall commence on the day immediately following the Effective Date.

§ 5. Governing Law; Home Venue Privilege.

The Contract and this Addendum are made in the City of Winter Haven, County of Polk, State of Florida, and shall be governed solely by the internal laws of the State of Florida. The Parties agree that venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to the Contract, the Addendum, the Contract Documents, any and all transactions contemplated thereunder, the performance thereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall lie exclusively in courts with geographic jurisdiction over Polk County, Florida, which, as of the Effective Date, are the County Court in and for Polk County, Florida, the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the United States District Court for the Middle District of Florida, Tampa Division. The Parties waive any objection to jurisdiction and venue in such courts.

§ 6. Financial Matters; City Performance Subject to Appropriation; Invoices; Applicability of the Florida Local Government Prompt Payment Act

(a) The City's obligation to perform under the Contract Documents and furnish payment to Vendor is expressly subject to appropriation of sufficient public funds by the City Commission of the City of Winter Haven, Florida. In the event the City Commission of the City of Winter Haven, Florida, fails to appropriate sufficient funds to satisfy the City's payment obligations to Vendor of any kind or type, the City or the Vendor may immediately

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terminate the Contract and this Addendum and be released from any future responsibility or liability thereunder.

(b) Invoices for services shall be sent to: City of Winter Haven – Finance Dept., P.O. Box 2277, Winter Haven, Florida 33883-227, or preferably, emailed to finance-AP@mywinterhaven.com, or at such other address as may be directed by the City to the Vendor in writing from time to time.

(c) The provisions of the *Local Government Prompt Payment Act*, §§ 218.70, *et seq.*, Florida Statutes (2024), are incorporated herein as if set forth in full, and shall control all payments made by the City to the Vendor required by the Contract Documents. To the extent there is conflict between the text of the Contract Documents and the text of the *Local Government Prompt Payment Act*, the text of the *Local Government Prompt Payment Act* shall control.

§ 7. Public Records Compliance.

Pursuant to Section 119.0701(1)(a) of the Florida Statutes, Vendor agrees to:

(a) Keep and maintain Public Records required by the City to perform the Services specified herein.

(b) Upon request from the City's custodian of Public Records, provide the City with a copy of the requested Public Records or allow the Public Records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

(c) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term and following completion of the contracted work or service if Vendor does not transfer the Public Records to the City.

(d) Upon completion of the contracted work or service, transfer, at no cost, to the City all Public Records in possession of Vendor or keep and maintain Public Records required by the City to perform the service. If Vendor transfers all Public Records to the City upon completion of the contracted work or service, Vendor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If Vendor keeps and maintains Public Records upon completion of the contracted work or service, Vendor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the City upon request from the City's custodian of Public Records, in a format that is compatible with the City's information technology systems.

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IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 863-291-5600, RECORDS@MYWINTERHAVEN.COM, 451 THIRD STREET NW, WINTER HAVEN, FL 33881.

If Vendor does not comply with a public records request, the City shall be entitled to any remedies set forth in Section 119.0701 of Florida Statutes, applicable law, or the Contract.

§ 8. Sovereign Immunity; Limitations of City's Liability.

(a) City is a sovereign Florida municipal government. The Parties agree that nothing contained in the Contract Documents shall be construed to waive the City's sovereign immunity. With respect to the matter of compensation for work performed, or the price of goods sold, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the agreed-upon price established in the Contract Documents, or any related purchase order, subject to annual appropriation performance contingencies. For all other matters, the Parties agree that the total potential liability of the City to the Vendor shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligations are based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. The Parties also agree that, except as may otherwise be set forth in the Agreement, the City shall not be liable to the Vendor for any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment.

(b) The Parties agree that the maximum value and monetary limits of any individual express City indemnification and all collective express City indemnifications found in the Contract Documents, if any exist, shall not exceed the limits of the City's potential liability as determined by the State of Florida's waiver of sovereign immunity set forth in the version of § 768.28(5) of the Florida Statutes in effect as of the Effective Date, regardless of whether any such obligation to indemnify or the underlying cause for indemnity is based in tort, contract, statute, strict liability, or negligence, product liability or otherwise. Notwithstanding anything in the Contract Documents to the contrary, to the extent that the City has agreed to an express indemnification, the Parties agree that no City indemnity shall require the City to defend Vendor and no City indemnity shall indemnify Vendor from and against attorneys' fees and costs, fees and costs for experts and witnesses, costs of suit, or any indirect, incidental, consequential, special, exemplary, or punitive damages of any kind or nature or interest for the period before judgment. . This limitation provision shall not be construed to create a duty for the City to indemnify the Vendor in the absence of an independent express indemnification clause.

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(c) This Section shall survive termination of the Contract and this Addendum.

§ 9. Required Clauses.

Pursuant to Florida Statutes, the following provisions are added to the Contract Documents:

(a) *Convicted Vendor List.* A person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of $35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. Vendor acknowledges that it is not on the State of Florida Convicted Vendor List and that it is eligible to enter into the Contract, this Addendum, the Contract Documents, and the resulting contract with the City.

(b) *Scrutinized Companies.* Section 287.135, Florida Statutes, prohibits the City from contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and contracting with companies for goods or services over $1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Cuba or Syria. Vendor acknowledges that it is not on the State of Florida Scrutinized Companies that Boycott Israel list, is not presently engaged in a boycott of Israel, is not on the State of Florida Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Cuba or Syria.

(c) *E-Verify.* By contracting with the City, the Vendor becomes obligated under Florida law to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the Vendor and any subcontractor hired by the Vendor. If the Vendor enters into a contract with a subcontractor, the subcontractor must provide the Vendor with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of the Contract, this Addendum, the Contract Documents, and all purchase orders if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the Vendor, the Vendor may not be awarded a public contract for a period of one (1) year after the date of termination.

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(d) *No Consideration of Social, Political, and Ideological Interests.* The provisions of Section 287.05701 of the Florida Statutes prohibit local governments from giving preference to a prospective contractor based on the prospective contractor's social, political or ideological interests or requesting documentation from, or considering, a prospective contractor's social, political, or ideological interests when determining if the prospective contractor is a responsible vendor.

(e) *Contracting with Foreign Entities.* By executing this Contract, Vendor certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of significant control of any such government. Further, Vendor certifies that no government of a Foreign Country of Concern has a "controlling interest" in Vendor as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the Vendor organized under the laws of a Foreign Country of Concern, nor does the Vendor have its principal place of business located in a Foreign Country of Concern. If this Contract permits the Vendor to access the personal identifying information of any individual, Vendor agrees to notify the City in advance of any contemplated transaction that would cause Vendor to be disqualified from such access under Section 287.138 of the Florida Statutes. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(f) *No Coercion for Labor or Services.* By executing this Contract, Vendor certifies, pursuant to Section 787.06(13), Florida Statutes under penalty of perjury, that it does not obtain labor or services by the use of coercion, by using or threatening to use physical force against any person; by restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; by using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; by destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; by causing or threatening to cause financial harm to any person; by enticing or luring any person by fraud or deceit; or by providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person. Vendor agrees to furnish the City with an affidavit signed by an officer or representative of the Vendor under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

§ 10. <u>Assignment by Vendor.</u>

The contract expressed by the Contract, this Addendum, and the Contract

Documents shall not be assigned by either party, or any successor thereto, in whole or in part without the prior written consent of the other party, which shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date indicated:

[*Signatures Follow on Pages 8 and 9*]

City of Winter Haven Contract Addendum
to:
Order Form for Smart Energy Water Cloud Services Subscription

Signature Page for Vendor

Vendor:

Executed this 30th day of July, 2025

By: DocuSigned by: Harman Sandhu B15E7D788BA6426...

Name: Harman Sandhu

Title: President

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City of Winter Haven Contract Addendum
to:
Order Form for Smart Energy Water Cloud Services Subscription

City of Winter Haven, Florida:

Executed this ____ day of _____, 2025

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to Form and Legal Sufficiency:

_____
City Attorney