AGREEMENT FOR CONTRACTOR SERVICES

THIS AGREEMENT is made as of the ___ day of _____ in the year 2009, between **THE CITY OF LEESBURG, FLORIDA,** whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **AMERICAN LIGHTING & SIGNALIZATION, INC.** whose address is 11639 Davis Creek Road East, Jacksonville, Florida 32256 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. Services. The CONTRACTOR shall perform the following services: **SEE EXHIBIT "A,"** which is attached and incorporated by reference herein. Nothing herein shall limit the CITY'S right to obtain proposals or services from other contractors for similar projects. The services shall be performed for a total price of $333,345.50. The cost of the services shall not exceed the above amount unless the CITY has executed a written change order approving any increase in price.

2. Labor and Materials. All work will be done in a competent and workmanlike manner, using quality, new materials. CONTRACTOR shall guarantee all materials and workmanship furnished under this agreement for a period of 365 days from completion.

3. Insurance. The CONTRACTOR will maintain throughout this Agreement the following insurance: SEE EXHIBIT "A".

A. The original of each such policy of insurance, or a complete duplicate, shall be delivered to the CITY by CONTRACTOR prior to starting work, together with evidence that the premiums have been paid.

B. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."

C. The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractors work.

D. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.

E. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR'S interests or liabilities, but are merely required minimums.

F. All liability insurance, except professional liability, shall be written on an occurrence basis.

G. The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.

H. Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.

I. Except for workers' compensation and professional liability, the CONTRACTOR'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.

J. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:

City of Leesburg
Attention: Mike Thornton, Purchasing Manager
P.O. Box 490630
Leesburg, Florida 34749-0630

K. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.

L. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.

M. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.

N. The CONTRACTOR, at the discretion of the Risk Manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR'S liability coverage(s).

4. Indemnification. The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Contract; or the negligence of the CONTRACTOR in the performance of its duties under this Contract, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Contract, or through the negligence of the CONTRACTOR in the performance of its duties under this Contract, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

If however, this agreement is a "construction contract" as defined in and encompassed by the provision of Florida Statutes § 725.06, then the following shall apply in place of the aforementioned indemnification provision:

The CONTRACTOR shall indemnify the CITY and hold it, its officers, and its employees harmless from liabilities, losses, and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The liability of the CONTRACTOR shall, however, be limited to one million and 00/100 dollars ($1,000,000.00) per occurrence, and the obligation of the CONTRACTOR to indemnify the CITY shall be limited to acts, omissions, or defaults of the CONTRACTOR; any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services or materials in connection with the project; and the CITY, its officers, agents and employees, provided however that the CONTRACTOR shall not be obligated to indemnify the CITY against losses arising from the gross negligence, or willful, wanton, or intentional misconduct of the CITY, its officers, agents and employees, or against statutory violations or punitive damages except to the extent caused by or resulting from the acts or omissions of the CONTRACTOR, or any contractors, subcontractors, sub-subcontractors, material men, or agents or employees of any of them, providing labor, services, or materials in connection with this Agreement.

5. **Codes, Laws, and Regulations**. CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

6. **Permits, Licenses, and Fees.** CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services. The cost of building permits are not part of the contract cost. The contractor is to be reimbursed separately for building permit fees.

7. **Access to Records**. CONTRACTOR will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CITY during CONTRACTOR'S normal business hours. Said records will be maintained for a period of three (3) years after the date of the invoice.

8. **Contingent Fees Prohibited.** The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

9. **Payment.** CITY shall compensate CONTRACTOR for their services in the following manner: **SEE EXHIBIT "A".**

10. Ownership of Documents. All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY'S use of any such materials for another PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

11. Independent Contractor. The CONTRACTOR agrees that he or she is an independent contractor and not an agent, joint venture, or employee of the CITY, and nothing in this Agreement shall be construed to be inconsistent with this relationship or status. None of the benefits provided by the CITY to its employees, including but not limited to, workers' compensation insurance, unemployment insurance, or retirement benefits, are available from the CITY to the CONTRACTOR. CONTRACTOR will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this Agreement. The CONTRACTOR shall be solely and primarily responsible for his and her acts during the performance of this Agreement.

12. Assignment. Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

13. No Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

14. Jurisdiction. The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

15. Term and Termination. The term of this Agreement shall be for a period of one (1) year or until the terms and conditions of this Agreement, including, but not limited to, its Scope of Services, have been completed, whichever occurs first, as determined by the CITY. Work shall commence within one hundred twenty (120) calendar days after CITY issues a Notice to Proceed. All services to be rendered by the CONTRACTOR as specified in the Contract Documents shall be completed within one hundred eighty (180) calendar days after the City issues a Notice to Proceed. All or part of this Agreement may be terminated by the CITY for its convenience on fifteen (15) days written notice to the CONTRACTOR. In such event, the CONTRACTOR will be entitled to compensation for services competently performed up to the date of termination.

16. Nonappropriation. The CONTRACTOR understands and agrees that this Contract is subject to the availability of funds to the CITY to purchase the specified products/services. As used herein, a "nonappropriation" shall be defined as an occurrence wherein the CITY, in any fiscal period, does not allocate funds in its budget for the purchase of the specified products/services or other amounts owed pursuant to this Contract, from the source of funding which the CITY anticipates using to pay its obligations hereunder, and the CITY has no other funds, from sources another than ad valorem taxes, which it deems to be available to pay its obligations under this Contract. The CITY

may terminate this Contract, with no further liability to the CONTRACTOR, effective the first day of a fiscal period provided that:

(a) A nonappropriation has occurred, and

(b) The CITY has provided the CONTRACTOR with written notice of termination, not less than fifteen (15) days before the proposed termination date.

Upon the occurrence of such nonappropriation the CITY shall not be obligated for payment for any fiscal period for which funds have not been appropriated.

17. Contact Person. The primary contact person under this Agreement for the CONTRACTOR shall be JAMES R. HARDIMAN. The primary contact person under this Agreement for the CITY shall be JIMMY FEAGLE.

18. Approval of Personnel. The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

19. Disclosure of Conflict. The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

20. Authority to Obligate. Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

21. Notice To Owner. All Notice to Owners (NTO) issued by sub-contractors and material suppliers must be mailed or delivered to:

PURCHASING MANAGER
RE: ITB 90051
2010 Griffin Road
Leesburg, FL 34748

All correspondence and NTO's must reference the project "MAST ARMS RADIO & COLLEGE – BID 90051."

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates under each signature.

THE CITY OF LEESBURG, FLORIDA

By: _____
Mayor/Commissioner

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

AMERICAN LIGHTING AND SIGNALIZATION, INC.

By: _____

Printed: JAMES R. HARDIMAN

Its: VICE PRESIDENT

Date: FEBRUARY 9, 2009

EXHIBIT"A"

SCOPE OF SERVICES

I. **Work.** CONTRACTOR shall perform all work in accordance with the Contract Documents. Furnish all materials, equipment, tools, labor and supervision necessary to complete the mast arm upgrade project as required by Invitation to Bid 90051 and its Addendums 1 and 2; and Contractor bid response submitted January 8, 2009.

II. **Technical Specifications.** Technical specifications for this project are comprised of Documents titled:

a) SPECIFICATIONS PACKAGE FOR US 441 Mast Arm Replacement at College Drive and Radio Road;
b) Technical Special Provisions for System Communications (Fiber Optic Cable) US 441 – College Dr to Radio Rd;
c) 12 Drawing sheets titled City of Leesburg Department of Public Works – Contract Plans Leesburg US 441 -0 College Drive to Radio Road.

These documebnts are incorporated by reference and made a part hereof.

III. **General Conditions.** The General Terms and Conditions of RFP 90051 are incorporated by reference and made a part hereof.

V. **Addenda.** Addendums 1 and 2 of ITB 90051 are incorporated by reference and made a part hereof. .

VI. **Contractor's Proposal Response.** The original ITB Response is incorporated by reference and made a part hereof. Bid schedules submitted by the Contractor are attached as **EXHIBIT "B"**.

VII. **Bid Schedule Correction.** The Bid Schedule submitted contained an addition error for intersection T-4/Highway 441 and College Drive. The total bid price submitted for the intersection was $180,356.50. This number is in error. The total for the intersection has been revised to $180,176.50. All unit prices and extended costs are correct the error exists when adding all the extended cost amounts. The revised total for both intersections is $333,345.50

VII. **Compensation.** The CITY shall pay to CONTRACTOR $333,345.50 for the services provided herein. Payment shall be made in accordance with applicable sections of the Technical Specifications document.

I. Bid Schedule

(Revised Addendum 1 – 12/9/2008)

Intersection T-4 / Highway 441 and College Drive

Pay Item	DESCRIPTION	Unit	Quantity	Unit Price	Extended Cost
Lake	MAINTENANCE OF TRAFFIC	PI	1	4,000.00	4,000.00
101-1	MOBILIZATION – 5% OF TOTAL AMOUNT OF WORK	LS	.5	8,797.00	4,398.50
102-14	TRAFFIC CONTROL OFFICER	MH	4	65.00	260.00
102-99	CHANGEABLE VARIALE MESSAGE SIGN-TEMP	ED	36	40.00	1,440.00
522-1	CONCRETE SIDEWALK	SY	14	100.00	1,400.00
630-1-12	CONDUIT (F&I) (UN DERGROUND)	LF	22	10.00	220.00
630-1-14	CONDUIT (F&I) (DIRECTIONAL BORE)	LF	363	14.00	5082.00
632-7-1	CABLE (SIGNAL) (F&I)	PI	1	4,000.00	4,000.00
633-121-1	CABLE FIBER OPTIC (F&I)I-24, UG 125W)	LF	100	39.00	3,900.00
635-1-11	PULL & JUNCTION BOXES	EA	5	300.00	1,500.00
639-1-22	ELEC POWER SERVICE (UNDERGROUND)	AS	1	1,600.00	1,600.00
639-2-1	ELECTRICAL SERVICE WIRE	LF	198	2.00	396.00
649-31-303	STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(60)	EA	2	26,000.00	52,000.00
649-31-304	STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(70.5)	EA	2	28,000.00	56,000.00
~~649-31-318~~	~~STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(60-70.5)~~	~~EA~~			
650-51-311	TRAFFIC SIGNAL (F&I 3-SEC., 1 WAY, STANDARD)	AS	12	800.00	9,600.00
~~650-51-511~~	~~TRAFFIC SIGNAL (F&I 5-SEC., 1 WAY, STANDARD)~~	~~AS~~			
653-391	SIGNAL, PED (INS, LED, 1 WAY) (COUNTDOWN)	AS	6	150.00	900.00
~~659-108~~	~~SIGNAL HEAD AUX. (F&I, STEEL PEDESTAL)~~	~~EA~~			
659-109	SIGNAL HEAD AUX. (F&I, CONC. PEDESTAL)(TYPE 2)	EA	1	900.00	900.00
663-74-11	VEH. DETECTOR ASSEMBLIES (F&I)(OPTICAL TYPE)	EA	1	6,500.00	6,500.00

Exhibit "B"

Pay Item	DESCRIPTION	Unit	Quantity	Unit Price	Extended Cost
665-11	DETECTOR, PEDESTRIAN (F&I)	AS	6	150.00	900.00
670-5-411	TRAF. CONTROLLER ASSEM. (MOD)(NEMA)(ONE PRE)	AS	1	1,000.00	1,000.00
690-10	SIGNAL HEAD TRAFFIC ASSEMBLY, REMOVAL	EA	10	50.00	500.00
690-20	SIGNAL PEDESTRIAN ASSEMBLY, REMOVAL	EA	6	40.00	240.00
~~690-31~~	~~SIGNAL PEDESTAL REMOVAL~~	~~EA~~			
690-32-1	POLE REMOVAL (SHALLOW/DIRECT BURIAL)	EA	4	1,350.00	5,400.00
690-60	DETECTOR VEHICLE ASSEMBLY, REMOVE	EA	1	20.00	20.00
690-70	DETECTOR PEDESTRIAN ASSEMBLY, REMOVE	EA	6	20.00	120.00
690-80	SPAN WIRE ASSEBLY REMOVE	EA	4	200.00	800.00
690-90	CONDUIT & CABLING, REMOVE	PI	1	200.00	200.00
690-100	SIGNAL EQUIPMENT, MISCELLANEOUS REMOVE	PI	1	700.00	700.00
699-1-1	INTERNALLY ILLUMINATED SIGN	EA	4	4,000.00	16,000.00
700-48-60	SIGN PANEL EXISTING (REMOVAL)	EA	4	50.00	200.00
				Intersection T-4 TOTAL BID	$ 180,356.50

Exhibit "B"

How many calendar days work will begin on intersection T-4 after NTP? 120 Calendar Days

Number of consecutive calendar days to complete intersection T-4? 60 Calendar Days

Exhibit "B"

Intersection T-5 / Highway 441 and Radio Road

Pay Item	DESCRIPTION	Unit	Quantity	Unit Price	Extended Cost
Lake	MAINTENANCE OF TRAFFIC	PI	1	4,000.00	4,000.00
101-1	MOBILIZATION – 5% OF TOTAL AMOUNT OF WORK	LS	.5	7,530.00	3,765.00
102-14	TRAFFIC CONTROL OFFICER	MH	4	65.00	260.00
102-99	CHANGEABLE VARIALE MESSAGE SIGN-TEMP	ED	36	40.00	1,440.00
522-1	CONCRETE SIDEWALK	SY	6	100.00	600.00
630-1-12	CONDUIT (F&I) (UN DERGROUND)	LF	62	8.00	496.00
630-1-14	CONDUIT (F&I) (DIRECTIONAL BORE)	LF	117	14.00	1,638.00
632-7-1	CABLE (SIGNAL) (F&I)	PI	1	4,000.00	4,000.00
633-121-1	CABLE FIBER OPTIC (F&I)I-24, UG 125W)	LF	100	39.00	3,900.00
635-1-11	PULL & JUNCTION BOXES	EA	3	300.00	900.00
639-1-22	ELEC POWER SERVICE (UNDERGROUND)	AS	1	1,600.00	1,600.00
639-2-1	ELECTRICAL SERVICE WIRE	LF	75	2.00	150.00
649-31-303	STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(60)	EA	1	25,000.00	25,000.00
649-31-304	STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(70.5)	EA	1	26,000.00	26,000.00
649-31-318	STEEL MAST ARM ASSEMB. (F&I)(110 MPH)(60-70.5)	EA	1	38,000.00	38,000.00
650-51-311	*TRAFFIC SIGNAL (F&I 3-SEC., 1 WAY, STANDARD)*	*AS*	*13*	800.00	10,400.00
650-51-511	*TRAFFIC SIGNAL (F&I 5-SEC., 1 WAY, STANDARD)*	*AS*	*2*	1,300.00	2,600.00
653-391	*SIGNAL, PED (INS, LED, 1 WAY) (COUNTDOWN)*	*AS*	*6*	150.00	900.00
659-108	*SIGNAL HEAD AUX. (F&I, STEEL PEDESTAL)*	*EA*	*2*	1,200.00	2,400.00
659-109	*SIGNAL HEAD AUX. (F&I, CONC. PEDESTAL)(TYPE 2)*	*EA*	*1*	900.00	900.00
663-74-11	VEH. DETECTOR ASSEMBLIES (F&I)(OPTICAL TYPE)	EA	1	6,000.00	6,000.00
665-11	DETECTOR, PEDESTRIAN (F&I)	AS	6	180.00	1,080.00

Pay Item	DESCRIPTION	Unit	Quantity	Unit Price	Extended Cost
670-5-411	TRAF. CONTROLLER ASSEM. (MOD)(NEMA)(ONE PRE)	AS	1	1,000.00	1,000.00
690-10	SIGNAL HEAD TRAFFIC ASSEMBLY, REMOVAL	EA	10	50.00	500.00
690-20	SIGNAL PEDESTRIAN ASSEMBLY, REMOVAL	EA	5	40.00	200.00
690-31	SIGNAL PEDESTAL REMOVAL	EA	4	200.00	800.00
690-32-1	POLE REMOVAL (SHALLOW/DIRECT BURIAL)	EA	2	1,350.00	2,700.00
690-60	DETECTOR VEHICLE ASSEMBLY, REMOVE	EA	1	20.00	20.00
690-70	DETECTOR PEDESTRIAN ASSEMBLY, REMOVE	EA	6	20.00	120.00
690-80	SPAN WIRE ASSEBLY REMOVE	EA	1	200.00	200.00
690-90	CONDUIT & CABLING, REMOVE	PI	1	200.00	200.00
690-100	SIGNAL EQUIPMENT, MISCELLANEOUS REMOVE	PI	1	700.00	700.00
699-1-1	INTERNALLY ILLUMINATED SIGN	EA	3	3,500.00	10,500.00
700-48-60	SIGN PANEL EXISTING (REMOVAL)	EA	4	50.00	200.00
				INTERSECTION T-5 TOTAL BID	$153,169.00
				INTERSECTION T-4 TOTAL BID	$180,356.50
				TOTAL PRICE BOTH INTERSCTIONS	**$333,525.50**

Total Price Written in Words
Three hundred thirty three thousand five hundred twenty five dollars fifty cents.

How many calendar days work will begin on intersection T-5 after NTP? 120 Calendar Days

Number of consecutive calendar days to complete intersection T-5? 60 Calendar Days

Total number of consecutive calendar days to complete BOTH INTERSECTIONS after NTP? 180 Calendar Days

Double check all figures before submitting your bid. Dollar amounts cannot be changed after the bids have been opened.

Exhibit "B"