

**STIPULATION REGARDING
AGREEMENT FOR CONTRACTOR SERVICES**

THIS STIPULATION is entered into as of the _____ day of June, 2011, between **THE CITY OF LEESBURG, FLORIDA** (hereinafter referred to as "City"), and **ENCORE CONSTRUCTION COMPANY, LLC** (hereinafter referred to as "Contractor").

City and Contractor executed an Agreement for Contractor Services (hereinafter referred to as the "Agreement") bearing a date of May 9, 2011, under which Contractor was to provide labor, services and materials related to improvements to be made to City's facilities known as the Highland Lakes Water Treatment Plant (such labor, services and materials to be referred to hereinafter as the "Project"). The Agreement was executed based on a competitive bid submitted by Contractor. After the Agreement was signed, City learned that Contractor's bid did not include certain equipment which City intended to specify by its Invitation to Bid to be included in all bids for the Project. Contractor has asserted that its bid was in conformance with the City's Invitation to Bid and that it included all labor, services and materials specified by the Invitation to Bid to be included in the price for the Project. As a result, City has elected to terminate the Agreement for convenience and the Contractor has accepted City's termination of the Agreement for convenience. The purpose of this Stipulation is to memorialize the terms by which the parties have consented to terminate the Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained in this Stipulation, the sum of \$10.00 and other good and valuable considerations, in hand paid and given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as set forth below:

1. City and Contractor mutually agree that the Agreement is hereby terminated for convenience, and neither party shall owe to the other any performance, nor any sum of money or other consideration, under the Agreement, which is declared to be null and void.
2. City agrees that it has not, and shall not, declare Contractor to be in default under its bid or the Agreement, that in consideration for this Stipulation the City and its officers, employees and agents shall not declare or assert that Contractor's bid was not in conformance with the Invitation to Bid for the Project, and that the City shall not assert or prosecute any claim against either the bid bond or the performance and payment bond posted with City by Contractor in connection with the Agreement and the Project. Furthermore, City agrees that it shall not assert or prosecute any claim against Contractor for damages or other relief arising out of Contractor's bid on the Project, or out of the Agreement.
3. Contractor agrees that it will not seek to recover any damages or other relief from City arising out of Contractor's bid on the Project, or out of the Agreement.
4. The parties do hereby mutually release one another from any and all claims, causes of action, damages, and legal or equitable relief of any nature whatsoever, arising out of or related in any way to the Agreement, Contractor's bid on the Project, the City's Invitation to Bid, the termination of the Agreement, or any other basis whatsoever.

5. The City hereby releases any bond or bonds tendered to it by Contractor in connection with Contractor's bid, the Agreement or the Project, and agrees that all such bonds may be canceled by Contractor and its sureties without liability to the City by either Contractor or its sureties for such cancellation.

6. This Stipulation sets forth the entire understanding of the parties with respect to its subject matter. It supersedes and takes precedence over the Agreement, the Invitation to Bid, and Contractor's bid, as well as all other previous understandings and agreements between the parties, whether verbal or written, all of which shall be deemed to have merged into this Stipulation and to have been extinguished hereby. This Stipulation may not be altered or amended verbally, by implication, by course of conduct, or in any other manner whatsoever other than by written instrument executed by both parties, which has been approved by the Leesburg City Commission at a duly noticed meeting of that body at which a quorum is present and the document purporting to modify this Stipulation has been placed on the agenda for deliberation and action. Venue for any action or proceeding arising out of this Stipulation shall be in Lake County, Florida. This Stipulation shall be governed by the laws of the State of Florida.

7. The parties have entered into this Stipulation for the purpose of resolving any disputes which may otherwise have arisen between them related to the Agreement, Contractor's bid, the Project and the City's Invitation to Bid. By entering into this Stipulation, neither party is admitting any fault or wrongdoing on its part nor is either party asserting any fault or wrongdoing on the part of the other party. This Stipulation is entered into by both parties based on their sound business judgment and to avoid any potential disputes or litigation, and shall not constitute evidence of any breach, default or other wrongdoing on the part of either the Contractor or the City, nor shall it be construed or asserted as such in any action or proceeding by or against City or Contractor, including but not limited to actions and proceedings initiated by persons not party to this Stipulation. This Stipulation is for the benefit of the Contractor and the City only. There are no intended, express or implied third party beneficiaries of this Stipulation, and this Stipulation may be enforced only by City and Contractor.

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IN WITNESS WHEREOF, City and Contractor have caused their duly authorized representatives to affix their signatures to this Stipulation.

THE CITY OF LEESBURG, FLORIDA

BY: _____
BILL POLK, Mayor

ATTEST: _____
BETTY RICHARDSON, City Clerk

DATE: June _____, 2011

APPROVED AS TO FORM AND CONTENT:

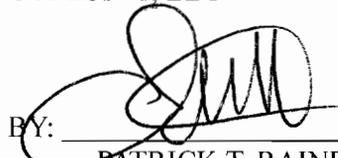
CITY ATTORNEY

WITNESSES:

ENCORE CONSTRUCTION
COMPANY, LLC



Carolyn Tracer
(Type or print name of witness)


BY: _____
PATRICK T. RAINEY, President



Tracy K Windsor
(Type or print name of witness)

DATE: June 17, 2011