Volusia Growth Management Commission
Meeting Notice and Agenda

7:00 p.m. August 28, 2019

City Commission Chambers
Daytona Beach City Hall
301 S. Ridgewood Avenue
Daytona Beach, FL

I. Call Meeting to Order
II. Roll Call
III. Citizen Comments on matters other than scheduled hearings
IV. Approval of Minutes:
   1) March 27, 2019 Regular Meeting
V. Public Hearings
   -- No public hearings scheduled
VI. Report from Planning Consultant
VII. Report from Legal Counsel
VIII. Report from Commission Operations Manager
IX. Report from Commission Chairman
X. Reports from Committees:
   1) P.O.P. Report
   2) Budget Report
      a) 2018-19 Year to Date Expenses
      b) 2019-20 Budget Update
XI. Old Business
XII. New Business
   1) Election of Vice Chair
   2) Consider renewal of GrayRobinson legal services contract for 2019-20 FY
   3) Consider renewal of S&ME planning services contract for 2019-20 FY
   4) Consider renewal of VHB planning services contract for 2019-20 FY
XIII. Commissioner Requests or Remarks
XIV. Adjournment

If a person decides to appeal any decision by the VGMC of any matter considered at such public meeting, (s)he will need to ensure that a verbatim record of such meeting is made, which record includes the testimony and evidence upon which the appeal is based.

In accordance with The Americans with Disabilities Act (ADA), if a person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, (s)he should contact the VGMC office at least 48 hours prior to the proceeding at 140 S. Beach, Suite #305, Daytona Beach, FL, 32114, (386) 947-1875.

*There will be a meeting of the Budget Committee beginning at 6:30 p.m. in the Conference Room adjacent to the City Commission Chambers
**There will be a meeting of the Personnel, Operations & Procedures (POP) Committee beginning at 6:15 p.m. in the City Commission Chambers

Volusia Growth Management Commission Meeting

MINUTES FOR
MEETING HELD
Wednesday, March 27, 2019

Thomas C. Kelly Administration Center
Frank T. Bruno Jr. County Council Chambers
123 W. Indiana Avenue
DeLand, FL

MEMBERS PRESENT	REPRESENTING
Debbie Connors, Chair	Port Orange
James Wachtel, Vice Chair	Volusia County
Loretta Arthur	Holly Hill
Larry Saffer	Daytona Beach Shores
Sid Vihlen, Jr.	DeBary
Mary Swiderski	Deland
Joseph Hammett	Lake Helen
Mark McGee	Oak Hill
Robert Storke	Orange City
Harold Briley	Ormond Beach
Paul Manning	Ponce Inlet
John Meikle	Volusia County
Glyn Slay	Volusia County
Jack Surrette	Volusia County
Thomas Wright	Volusia County

MEMBERS NOT PRESENT	
Doug Gutierrez	Daytona Beach
Sandy Lou Gallagher	Deltona
Teresa Pope	Edgewater
Christy Gillis	South Daytona

NON-VOTING MEMBERS		
Sara Lee Morrissey	(not present)	Volusia Co. School Board
Steven Fitzgibbons	(not present)	SJRWMD

OTHERS PRESENT

Heather Ramos, GrayRobinson, General Counsel
Chris Dougherty, S&ME, VGMC Planning Consultant
Merry Chris Smith, VGMC Operations Manager

CALL TO ORDER

VGMC Chair Debbie Connors called the meeting to order at 7:00 p.m.

DRAFT

ROLL CALL

Roll call was taken and it was determined there was a quorum present. Chair Connors welcomed new member Paul Manning who was recently appointed to represent Ponce Inlet on the VGMC.

CITIZEN COMMENTS

There were no citizens present who wished to speak at this time.

APPROVAL OF MINUTES

Harold Briley made a motion to approve the minutes of the February 27, 2019 regular meeting of the commission as presented; seconded by James Wachtel. Motion carried unanimously.

PUBLIC HEARING

There were no scheduled public hearings.

REPORT FROM PLANNING CONSULTANT

Chris Dougherty, planning consultant, provided a brief update on applications pending and recently certified.

REPORT FROM LEGAL COUNSEL

No report at this time.

REPORT FROM COMMISSION OPERATIONS MANAGER

Ms. Smith stated that a number of member terms are scheduled to expire on June 30, 2019 and she would be writing to the respective local government regarding reappointments. Commissioner Vihlen asked Ms. Smith to send all of the members a listing of term expiration dates.

REPORTS OF COMMISSION CHAIRMAN

No report at this time.

REPORTS OF COMMITTEES

POP Report: POP Committee Chairman James Wachtel reported that the committee met immediately prior to the regular meeting. Mr. Wachtel stated that a discrepancy in the timing of the review process has been discussed, and he explained that staff would be including additional language in their communications to the local governments with more specific dates and time lines.

DRAFT

Budget Report: Budget Committee Chair Loretta Arthur reported the committee met immediately prior to the regular meeting as well. She stated current YTD expenditures are within budget and no changes are recommended.

Ms. Arthur stated the 2019-20 proposed budget was discussed at the February 27, 2019 meeting and the committee recommended to increase the legal budget to $50,000 and reduce the legal expenses to $10,000. She stated these changes are included in the current proposed budget and the committee voted to recommend the full commission approve the budget as presented.

The recommendation comes to the commission as a motion and second. There was no further discussion and the motion was unanimously approved.

OLD BUSINESS

There was no old business for discussion.

NEW BUSINESS

1) Consideration of VGMC Resolution #2019-02 proposing amendments to the Volusia Growth Management Commission Rules of Procedure for Meetings, Membership, and Operations relating to minimum meeting requirements for the Budget Committee

Mr. Wachtel stated this item was discussed at the February 27, 2019 meeting to consider a change in the minimum number of annual meetings required for the Budget Committee from four to two. He stated the change is on page six of the VGMC Rules of Procedures, and the POP committee voted to recommend the full commission approve VGMC Resolution #2019-02 as presented.

The recommendation comes to the commission as a motion and second. There was no further discussion and the motion was unanimously approved.

COMMISSIONER REQUESTS OR REMARKS

There were no commissioner requests or remarks.

ADJOURNMENT

There being no further business, Chair Connors thanked everyone for attending and the meeting was adjourned at 7:10 p.m.

_____ _____

Attest: Secretary Chair

DRAFT

Pending VGMC Applications as of August 13, 2019

File #- Applicant	Acres	Location & Applicant	Existing Use	Proposed Use	Large/ Small	App Received/ Complete	Status
19-034 DeLand	31.5	210 N Ridgewood Ave	County Rural	City Urban Low Intensity	Large	7/18/19	Reviewing

VGMC Budget Worksheet

2018-19 Budget Expenses Through 8/12/19

Object Code	Short Description	Original Budget	Amended Budget	Total Expenses	Budget Balance	% of Budget
1201	Salaries	$26,844.00	$26,844.00	$22,150.00	**$4,694.00**	83%
2100	FICA	$2,064.00	$2,064.00	$1,215.00	**$849.00**	59%
2200	Retirement	$2,092.00	$2,092.00	$1,836.00	**$256.00**	88%
2301	Group Insurance	$5,516.00	$5,516.00	$5,516.00	**$0.00**	100%
2302	Life Insurance	$262.00	$262.00	$217.00	**$45.00**	83%
2303	Dental Insurance	$144.00	$144.00	$0.00	**$144.00**	0%
	Personal Services	$36,922.00	$36,922.00	$30,934.00	**$5,988.00**	84%
3320	Comm. Fees	$250.00	$250.00	$175.00	**$75.00**	70%
3400	Contract Services	$130,000.00	$130,000.00	$46,355.00	**$83,645.00**	36%
3710	Computer Replacement	$808.00	$808.00	$808.00	**$0.00**	100%
3810	Training & Education	$200.00	$200.00	$0.00	**$200.00**	0%
3820	Registration Fees	$250.00	$250.00	$0.00	**$250.00**	0%
4000	Travel	$4,410.00	$4,410.00	$0.00	**$4,410.00**	0%
4100	Communications	$600.00	$600.00	$600.00	**$0.00**	100%
4211	Postage - CNTY	$1,500.00	$1,500.00	$358.00	**$1,142.00**	24%
4250	Mileage	$300.00	$300.00	$0.00	**$300.00**	0%
4400	Rent	$9,000.00	$9,000.00	$7,965.00	**$1,035.00**	89%
4510	Liability Insurance	$633.00	$633.00	$633.00	**$0.00**	100%
4700	Printing	$500.00	$500.00	$0.00	**$500.00**	0%
4711	Xerox - C/R	$1,000.00	$1,000.00	$164.00	**$836.00**	16%
4910	Legal Ads	$4,000.00	$4,000.00	$576.00	**$3,424.00**	14%
5100	Office Supplies	$1,000.00	$1,000.00	$160.00	**$840.00**	16%
5102	Office Equipment	$500.00	$500.00	$0.00	**$500.00**	0%
5230	Food & Dietary	$500.00	$500.00	$15.00	**$485.00**	3%
*5440	Software	$0.00	$0.00	$328.00	**-$328.00**	
	Operating	$155,451.00	$155,451.00	$58,137.00	$97,314.00	37%
6430	Other Equipment	$0.00	$0.00	$0.00	**$0.00**	0%
	Capital Outlay	$0.00	$0.00	$0.00	**$0.00**	0%
	ORG	$192,373.00	$192,373.00	$89,071.00	**$103,302.00**	46%

*This expense is for license to upgrade Adobe Acrobat software which was unbudgeted.

Contract Services YTD Actual Expenses Paid break down as follows:

$ 7,636 Legal-GrayRobinson
$ 2,470 Planning-VHB
$ 36,249 Planning-S&ME

$540 CURRENTLY PENDING IN CONTRACT SERVICES INVOICES

8/12/2019

Volusia Growth Management Commission

TO: VGMC Members

FROM: Merry Chris Smith, Operations Manager

DATE: August 14, 2019

RE: 2019-20 Budget Update

Attached please find a worksheet showing the 2019-20 budget as approved by the VGMC compared to what the County Budget office is recommending.

The County has recommended a total VGMC budget of $192,241 which is approximately $10,000 less than proposed by the commission. You will see that the $10,000 litigation contingency (3101 Legal Expenses) has been removed. Additionally, the personal services budget, as well as the 3710-Computer and 4510-Insurance-Liability line items are determined by the County each year, and you will see slight modifications in those areas.

The Volusia County Council is scheduled to hold two public hearings on the budget. The first is expected to be held on September 3, 2019, with the second/adoption hearing to be held on September 17, 2019.

There is no action necessary on the part of the Budget Committee or VGMC at this time. If you have any questions in advance of the meeting, please do not hesitate to contact me.

140 South Beach Street, Suite 305, Daytona Beach, FL 32114
Tel: 386-947-1875 ■ Fax: 386-947-1877 ■ Email: vgmc@volusia.org

2019-20 Budget Worksheet Comparison
VGMC Proposed vs. County Recommendation

Object Code	Short Description	VGMC Proposed	County Recommendation	Dollar Change
1201	Salaries	$27,355.00	$27,650.00	$295.00
2100	FICA	$2,092.00	$2,132.00	$40.00
2200	Retirement	$2,035.00	$2,368.00	$333.00
2301	Group Insurance	$5,516.00	$4,500.00	-$1,016.00
2302	Life Insurance	$262.00	$308.00	$46.00
2303	Dental	$144.00	$176.00	$32.00
	Personal Services	$37,404.00	$37,134.00	-$270.00
3101	Legal Expenses	$10,000.00	$0.00	-$10,000.00
3320	Comm. Fees	$250.00	$250.00	$0.00
3400	Contract Services	$130,000.00	$130,000.00	$0.00
3710	Computer Replacement	$808.00	$816.00	$8.00
3810	Training & Education	$200.00	$200.00	$0.00
3820	Registration Fees	$250.00	$250.00	$0.00
4000	Travel	$4,410.00	$4,410.00	$0.00
4100	Communications	$600.00	$600.00	$0.00
4211	Postage - CNTY	$1,500.00	$1,500.00	$0.00
4250	Mileage	$300.00	$300.00	$0.00
4400	Rent	$9,000.00	$9,000.00	$0.00
4510	Insurance-Liability	$633.00	$281.00	-$352.00
4701	Printing C/R	$500.00	$500.00	$0.00
4711	Copying - C/R	$1,000.00	$1,000.00	$0.00
4910	Legal Ads	$4,000.00	$4,000.00	$0.00
5100	Office Supplies	$1,000.00	$1,000.00	$0.00
5102	Office Equipment	$500.00	$500.00	$0.00
5230	Food & Dietary	$500.00	$500.00	$0.00
	Operating	$165,451.00	$155,107.00	-$10,344.00
	TOTAL	$202,855.00	$192,241.00	-$10,614.00

8/8/2019

Volusia Growth Management Commission

TO: VGMC Members

FROM: Merry Chris Smith, VGMC Operations Manager

DATE: August 14, 2019

RE: Renewal of VGMC Consultant Staff Contracts

Attached please find the proposed renewal contracts from GrayRobinson, S&ME and VHB for legal and planning services for the 2019-20 fiscal year.

The VHB and S&ME contracts are consistent in both provisions and pricing with their current contracts. The GrayRobinson contract provisions are consistent with the current approved contract except that it proposes an increase in fees from $200 to $225/hour for attorneys, and $95 to $105/hour for paralegals.

The POP Committee will review the contracts and consider a recommendation to bring before the full commission at the August 28th regular meeting.

If you have any questions in the meantime, please do not hesitate to contact me.

140 South Beach Street, Suite 305 ▪ Daytona Beach, FL 32114
Tel: 386.947.1875 ▪ Fax: 386.947.1877 ▪ Email: vgmc@co.volusia.fl.us

GRAY | ROBINSON
ATTORNEYS AT LAW

301 EAST PINE STREET
SUITE 1400
POST OFFICE BOX 3068 (32802-3068)
ORLANDO, FLORIDA 32801
TEL 407-843-8880
FAX 407-244-5690

BOCA RATON
FORT LAUDERDALE
FORT MYERS
GAINESVILLE
JACKSONVILLE
KEY WEST
LAKELAND
MELBOURNE
MIAMI
NAPLES
ORLANDO
TALLAHASSEE
TAMPA
WEST PALM BEACH

Heather M. Ramos

407-244-5670

HEATHER.RAMOS@GRAY-ROBINSON.COM

August 2, 2019

Debbie Connors, Chair
Volusia Growth Management Commission
140 S. Beach Street, Suite 305
Daytona Beach, FL 32114

Re: Legal Representation Contract for Services for Fiscal Year 2019/2020

Dear Ms. Connors:

This letter is sent in response to your request for a contract letter to be reviewed by the Personnel, Operations and Procedures (POP) Committee. This letter is for the fiscal year 2019/2020 for our firm's legal representation of the Volusia Growth Management Commission (the "Commission").

Over the years, it has been our experience that things go more smoothly if we have a clear understanding of your needs and the role we need to play. The purpose of this engagement letter is to confirm an agreement concerning representation and the payment of our fees and expenses. This engagement letter will govern all subsequent matters in which we may become involved on your behalf unless a separate arrangement is made.

We will do our very best to meet your needs in any matters we undertake for you, but as you know, we cannot and do not make any representations or warranties concerning the outcome. We will give you our best advice, render opinions, and seek to obtain the desired result. In this regard, it is most important that we communicate regularly.

As general counsel to the Commission, our duties will include:

(i) Attendance at all meetings of the full Commission (unless our attendance is deemed not necessary by the chairman or her designee) at which we will provide oral reports on legal activities, if any;

(ii) Analysis of and comments on applications to the Commission for consistency certification when a request for comment is received from planning staff;

(iii) Preparation of draft resolutions regarding consistency certification applications for consideration by the Commission;

(iv) Consultations with the Commission Operations Manager and chairman on procedural matters and prepare procedural memorandums as so directed in the Commission's Rules of Procedure;

(v) Upon prior approval from the chairman, meeting with the local governments and proponents of a comprehensive plan change to discuss and review legal issues on particular applications to the Commission; in the event there are exigent circumstances to attend such a meeting and prior approval from the chairman is not possible, authorization to attend said meeting may be obtained from the vice chairman or the secretary to the Commission;

(vi) Attendance at the Commission's committee meetings as directed by the committee chair;

(vii) Undertaking special projects and preparing reports as directed by the Commission; and

(viii) Immediately addressing and responding to new litigation matters so as to preserve jurisdiction of the Commission and subsequently present the litigation matter to the full Commission for direction on the litigation position of the Commission and for direction as to whether general counsel shall pursue such litigation on behalf of the Commission.

GrayRobinson will begin performance of the above services on the date written authorization to proceed is received. The duration of this continuing services Agreement shall be one (1) year. The Commission shall have the option of extending this Agreement for additional one (1) year terms; however, this Agreement will revert to a month-to-month contract under the current terms until such time as a new Agreement is reached.

In the event GrayRobinson elects to withdraw from representation, or if the Commission, by a weighted majority vote of the Commission, elects to terminate the services of GrayRobinson, a minimum of 90 days written notice will be provided to the affected party.

GrayRobinson strives to maintain the highest ethical standards. GrayRobinson is governed by the Florida Bar's Rules of Professional Conduct, including but not limited to, Rule 4-1.7, Conflict of Interest, Current Clients, and Rule 4-1.9, Conflict of Interest, Former Client, and represents that GrayRobinson will at all times perform any and all services under this Agreement in compliance with the Rules of Professional Conduct.

GrayRobinson agrees that, if changes, including additions, to the facts disclosed by it prior to execution of this Agreement, occur during performance of this Agreement, it shall make an immediate and full disclosure of such changes in writing to the Commission. GrayRobinson shall not undertake any representation of other clients which may result in a conflict of interest, without first obtaining written informed consent from each affected client(s), including the

Commission, prior to commencement of such representation consistent with Rule of Professional Conduct 4-1.7(b).

I am submitting the following arrangements with our firm regarding fees and costs:

1. Our fees will be based on an hourly rate of $225.00 for attorneys and $105.00 for paralegals. As you are aware, this hourly attorney and paralegal rate is considerably below the hourly rates normally charged our clients. I will be primarily responsible for your work, and will be assisted by other legal staff as necessary, including, but not limited to our paralegal, Stephanie Cross, who may also work on matters related to the Commission.

2. Our statement for fees and costs will be submitted on a monthly basis and are normally to be paid within thirty days of receipt of the statement. Included with this letter, please find a copy of our firm's policy regarding fees and costs and document and file retention. All conditions in that document are incorporated by reference as a part of this fee letter. Please read the document carefully. Also attached is a copy of our current cost recovery rates/charges. We will continue to reduce photocopying costs for the Commission and mileage will be computed at 44.5 cents per mile for all travel related to the Commission per Section 112.061(7)(d)1 of the Florida Statutes.

If the foregoing meets with the approval of you and the Commission, please have the Commission's authorized representative execute this letter agreement in the space provided, and return it to me. Your acceptance of our representation will include our agreement regarding fees and costs.

Our firm looks forward to continuing to work with you and all the Commissioners in the future. If you have any questions regarding this representation letter or any other matter, do not hesitate to call me.

Sincerely,

GrayRobinson, P.A.

Heather M. Ramos

HMR/sdh

Enclosures

cc: Merry Chris Smith, Operations Manager

ACCEPTED BY:

VOLUSIA GROWTH MANAGEMENT COMMISSION

_____
Signature

_____
Print Name and Title

Date:_____

POLICY REGARDING FEES AND EXPENSES

FEES:

Quality legal services and good results require ability and effort. These are our "stock in trade." Our fees are based on our skill, the time expended, and the responsibility involved. Our fees will be solely based on the time devoted to the matter and professional skills involved.

EXPENSES:

You will be charged a reasonable rate for postage, reproduction, couriers, express mail, long-distance telephone, travel costs and other costs. We may also use computerized research services to assist in handling your matters. This service will be used when we believe that it will save you money to do so. Expenses incurred or advanced on your behalf will be itemized on the statement.

BILLING:

You will be billed periodically, usually monthly. There will be a service charge of 1-1/2% per month on all accounts not paid within 30 days of the date the statement is mailed to you. Interest charges will be added on to any outstanding balance and will be reflected in subsequent statements.

In the event you should disagree with or question any amount due under an invoice, you agree to communicate such disagreement to us, in writing, within thirty (30) days of the invoice date. Any disagreement you may have with a bill that is not communicated to us within that period shall be deemed waived.

COMMENCEMENT OF REPRESENTATION:

Our representation will not commence until we receive a signed copy of the letter to which this statement is attached, together with payment of any retainer specified therein.

WITHDRAWAL FROM REPRESENTATION:

We reserve the right to withdraw as your counsel in the event you fail to honor your agreement with respect to our legal fees or for any just reason as permitted or required under the Florida Code of Professional Responsibility or as permitted by the rules of courts of the State of Florida. In the event of our withdrawal, you will promptly pay for all services rendered by us prior to the date of withdrawal.

DOCUMENT AND FILE RETENTION:

In representing the Volusia Growth Management Commission, our firm could be deemed to be "acting on behalf" of the Commission as contemplated under section 119.0701 of the Florida Statutes. In an abundance of caution, we have always complied in such representations with the

letter and spirit of Florida's Public Records Act, Chapter 119 of the Florida Statutes including specifically subsection 119.0701(2), which requires the firm to:

a. Keep and maintain public records required by the Commission to perform the services under this Agreement.
b. Upon request from the Commission's custodian of public records, provide the Commission 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 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 Agreement term and following completion of the Agreement if the firm does not transfer the records to the Commission.
d. Upon completion of the Agreement, transfer, at no cost, to the Commission all public records in our possession or keep and maintain public records required by the Commission to perform the services under this Agreement. If the firm transfers all public records to the Commission upon the expiration or termination of this Agreement, the firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the firm keeps and maintains public records upon the expiration or termination of this Agreement, the firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon request from the Commission's custodian of public records, in a format that is compatible with the information technology systems of the Commission.

If we fail to provide the public records to the Commission within a reasonable time we may be subject to penalties under Section 119.10 of the Florida Statutes. Further, the Commission may exercise any remedies at law or in equity, including, without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate the legal representation contract.

IF GRAYROBINSON HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COMMISSION'S CUSTODIAN OF PUBLIC RECORDS AT vgmc@volusia.org, 386-947-1875, 140 S. Beach St., Suite 305.

You should be aware of our document and file retention policy. If and when representation of the Commission is concluded, the file will be officially closed. Once the file is closed, it may be sent to off-site storage, and there may be costs associated with retrieval of information from the file. The firm retains stored and closed files for a period of ten (10) years after which time they may be destroyed. This period is twice as long as that required under Florida retention laws. Thus, if there are any documents which you need from the documents we possess, we recommend that you obtain them at the termination or expiration of this Agreement.

CLIENT CHARGES

Reproduction Costs (copier) – $.20 per copy (Black & White)
– $.60 per Copy (Color)

Express Mail (Federal Express) – Fed Ex Discounted Charges.

Express Mail (UPS) – Actual UPS Charges.

Computerized Research (Lexis/Westlaw) – Actual direct usage costs.

Mileage – Current IRS standard rate.

Courier Service (Outside Courier) – Actual charges.

Postage and Handling – Actual Postage.

August 9, 2019

Ms. Debbie Connors
Volusia Growth Management Commission
140 S. Beach Street
Suite #305
Daytona Beach, FL 32114

Reference: Consulting Planning Services Contract 2019-2020
S&ME Project No. 20140535

Dear Ms. Connors:

S&ME, Inc. (S&ME/CONSULTANT), is pleased to present this contract to provide full range comprehensive plan amendment review services to the Volusia Growth Management Commission (VGMC/CLIENT) for the 2019-2020 fiscal year. We are excited about the opportunity to continue to work in a creative and collaborative environment with the VGMC and are committed to providing the Commission with thorough reviews and attentive service.

PROJECT DESCRIPTION

S&ME understands that the VGMC is tasked by Section 202.3 of the Volusia County Charter to "determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other." Section 90-37 of the Volusia County Code further defines the VGMC's powers and duties under the Charter.

S&ME will provide to the VGMC the professional planning services necessary to meet the responsibilities defined in both the County Charter and Code of Ordinances. This includes review of comprehensive plan amendments for consistency with the comprehensive plans of adjacent local governments and all other substantially affected and aggrieved local governments, as well as a determination as to whether the proposed amendment adversely affects intergovernmental cooperation and coordination.

The scope of services provided to the Commission is more specifically described in the section below.

SCOPE OF SERVICES

Application Review

Upon receipt of an application from the VGMC Operations Manager, S&ME will review the subject comprehensive plan amendment utilizing the rules identified in Sections 90-35(d), 90-37 and 90-341 of the Volusia County Code. This review may include:

- Communication with the VGMC Operations Manager, VGMC Legal Counsel and VGMC Chairman.

- Verbal or written correspondence with the applicant local government, adjacent local governments, other substantially affected or aggrieved local governments, state or local regulatory agencies and interested third parties.
- Preparation of Requests for Additional Information ("RAI").
- Preparation of a Determination of Consistency memorandum to the Chairman for applications determined to be eligible for certification.
- Preparation of a staff report and presentation for applications which require a public hearing before the VGMC.
- Review of additional information as identified in Section 90-37(i) of the Volusia County Code.
- Upon prior approval from the Chairman, meet with the local governments and proponents of a comprehensive plan change to discuss and review planning issues on particular applications to the Commission; in the event there are exigent circumstances to attend such a meeting and prior approval from the Chairman is not possible, authorization to attend said meeting may be obtained from the Vice Chairman or the Secretary of the Commission.
- Attendance at VGMC regular meetings as directed by the Chairman and provide oral report on planning activities unless otherwise notified by the VGMC Operations Manager at the time of agenda distribution.
- Attend VGMC committee meetings as directed by the committee chair.
- Undertake and/or participate in special projects and prepare reports, such as, but not limited to, the revisions to the Certification Rules, as directed by the Commission.

Other Duties

Upon prior approval from the Chairman, Consultant may also:

- Represent the VGMC at hearings, meetings or workshops relating to comprehensive planning matters.

DESIGNATED PROJECT MANAGER

S&ME represents that Christopher R. Dougherty, AICP will serve as the designated project manager for the VGMC, and will be the primary point of contact and responsible for work product to the VGMC. Consultant agrees that any intended change or substitution in the designated project manager must be approved in advance by the VGMC.

ADDITIONAL SERVICES

S&ME can provide additional related services to above scope of services as requested by the VGMC. These may include, but are not limited to, preparing special studies; attendance at meetings or seminars not identified in the scope; or evaluating changes in legislation.

COMPENSATION

Consultant will perform the Scope of Services contained in this Agreement in accordance with Exhibit "A" on an hourly basis consistent with the rate schedule attached as Exhibit "B."

INVOICES

Invoices will be submitted to the VGMC on a monthly basis. All invoices will include a detailed description of services performed along with the corresponding date(s) the services were performed, the specific staff member who performed the services, and the number of hours billed for those services.

Again, thank you for the opportunity to submit this contract letter. We look forward to continuing our partnership in fiscal year 2019-2020. If the scope of services, fee rates and the terms of the agreement are acceptable, please sign and return a copy of this letter to our office.

Sincerely,

S&ME, Inc.

Pat Tyjeski, AICP
Planning Director

Chris R. Dougherty, AICP
Planner/Project Manager

AGREED BY:

_____ _____
Name Date

_____
Volusia Growth Management Commission, Title

Exhibit A

S&ME
TERMS AND CONDITIONS

ARTICLE 1. CONSULTANT'S RESPONSIBILITIES:

1.1 Perform its services in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of competent consultants practicing in the same or similar locality of the PROJECT site. No other warranty, expressed or implied, is made.

1.2 Rely upon the accuracy and completeness of information and services furnished by CLIENT and/or the CLIENT'S consultants and contractors. The CONSULTANT shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT'S consultant and contractors.

1.3 Consider all prepared documents to be confidential, and distribute copies of same only to those persons or agencies specifically designated by CLIENT or his authorized representative.

1.4 In representing the CLIENT, the CONSULTANT could be deemed to be a "contractor" under section 119.0701, Fla. Stat.

a. In an abundance of caution, the CONSULTANT shall comply with the letter and spirit of Florida's Public Records Act, Chapter 119, Fla. Stat., including specifically section 119.0701(2), which requires that the CONSULTANT:

i. Keep and maintain public records required by the Commission to perform the services under this Agreement.

ii. Upon request from the Commission's custodian of public records, provide the Commission 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 otherwise provided by law.

iii. 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 the Contractor does not transfer the records to the Commission.

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

b. If the Contractor fails to provide the public records to the Commission within a reasonable time the Contractor may be subject to penalties under Section 119.10 of the Florida Statutes. Further, the Commission may exercise any remedies at law or in equity, including,

without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate this Agreement in accordance with the terms hereof.

c. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COMMISSION'S CUSTODIAN OF PUBLIC RECORDS AT 386-947-1875, vgmc@volusia.org, and 140 S. Beach Street, #305, Daytona Beach, FL 32114.**

1.5 The CLIENT should be aware of the CONSULTANT'S document and file retention policy. Once a case is concluded, the file will be officially closed. Once the file is closed, it may be sent to off-site storage, and there may be costs associated with retrieval of information from the file. The CONSULTANT retains stored and closed files for a period of ten (10) years after which time the files may be destroyed.

ARTICLE 2. CLIENT'S RESPONSIBILITIES:

2.1 Provide CONSULTANT with necessary PROJECT information in a timely manner regarding the requirements for and limitations of the PROJECT which is available to or reasonably obtainable by the CLIENT.

2.2 Furnish right-of-entry onto the PROJECT site in order for CONSULTANT to perform work associated with the PROJECT. CONSULTANT will endeavor to preserve the land but makes no guarantee to restore the site to its original condition.

2.3 Designate PROJECT representative to coordinate with the CONSULTANT.

2.4 Guarantee to CONSULTANT that he has the legal capacity to enter into this contract, and that sufficient monies are available to fund CONSULTANT'S compensation.

2.5 Provide prompt written notice to CONSULTANT if CLIENT becomes aware of any fault or defect in the PROJECT, including any errors or omissions in CONSULTANT'S work.

ARTICLE 3. GENERAL CONDITIONS:

3.1 CONSULTANT, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the PROJECT.

3.2 CONSULTANT shall not be responsible for acts or omissions of any party involved in concurrent or subsequent phases of the PROJECT acting upon written or verbal recommendation issued by CONSULTANT except for specific design specifications.

3.3 This section intentionally deleted.

3.4 This Agreement may be terminated in accordance with Section 8.1. In the event of termination of this Agreement, the CLIENT shall, within thirty (30) calendar days of termination, pay the CONSULTANT for all services rendered and all reimbursable costs incurred by the CONSULTANT up to the day of termination. In the event of any termination that is not the fault of the CONSULTANT, the CLIENT shall pay the CONSULTANT, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by the CONSULTANT in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associates overhead costs and all other expenses directly resulting from the termination.

3.5 Neither CLIENT nor CONSULTANT may assign, transfer, or sublet any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to sub-consultants, normally contemplated by the CONSULTANT as a generally accepted business practice, shall not be considered an assignment for the purposes of this Agreement. Any subconsultants utilized by CONSULTANT shall be pre-authorized by CLIENT.

3.6 This section intentionally left blank.

3.7 If a dispute arises out of or relates to this contract, or the breach thereof, the parties will attempt to settle the matter through amicable discussion. If no agreement can be reached, the parties agree to use non-binding mediation before resorting to a judicial forum. The cost of a third party mediator will be shared equally by the parties. In the event of litigation, reasonable costs and attorneys' fees will be awarded to the prevailing party. All questions as to the interpretation or enforceability of this Agreement shall be governed in accordance with the laws of Florida. In the event of any litigation involving this Agreement or the performance by the parties thereto, such actions shall be brought in a court of competent jurisdiction in Florida.

3.8 The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify, and hold harmless the CONSULTANT, its officers, directors, employees, and sub-consultants (collectively, CONSULTANT) from and against all claims, damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising out of or in any way related to the services performed under this Agreement, except to the extent such claims, damages, liabilities or costs result from CONSULTANT'S sole negligence or willful misconduct.

3.9 The CLIENT and the CONSULTANT waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement, and the CONSULTANT and the CLIENT release each other from any and all such consequential damages. This mutual waiver is applicable, without limitation, to all consequential damages including but not limited to, consequential damages arising out of either party's termination in accordance with Section 3.4.

3.10 Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other party or entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services hereunder.

3.11 The CLIENT and CONSULTANT agree that notices may be sent in writing or by electronic means as outlined in the Uniform Electronic Transaction Act and that electronic signatures are as equally binding as manual signatures.

3.12 This section intentionally deleted.

ARTICLE 4. OWNERSHIP OF DOCUMENTS:

4.1 All documents including Drawings and Specifications (whether in hard or electronic form) prepared by Consultant pursuant to the Agreement are instruments of service with respect to the Project. They are not intended or represented to be suitable for reuse by the VGMC or others on extensions of the Project or any other Project. Any reuse by the VGMC or a third person or entity authorized by the VGMC without written verification or adaptation by Consultant for the specific purpose intended will be at the VGMC's sole risk and without liability or legal exposure to the Consultant; and the VGMC, shall release, indemnify and hold harmless Consultant from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting there from.

Any such verification or adaptation will entitle the Consultant to additional compensation at rates to be agreed upon by the Consultant and the third person or entity seeking to reuse said documents.

If any information hereunder is provided in electronic format, the VGMC recognizes that such plans, documents or other information recorded on or transmitted as electronic media, including CADD documents ("Electronic Documents") are subject to undetectable alteration, either intentional or unintentional, due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, the Electronic Documents are provided to the VGMC for informational purposes only and not as record documents.

4.2 To the extent permitted by law, the Consultant retains the copyright in all written work products, including plans, specifications, calculations, computer programs, and computer generated materials in any form, produced in connection with the work under this Agreement, unless otherwise agreed to in writing by an authorized representative of the Consultant. Subject to this Exhibit A, Section 4.1, Documents and Work Product, the Consultant licenses to the VGMC the use of all written work products, including plans, specifications, calculations, and computer generated materials in any form, produced in connection with the work under this Agreement on a non-exclusive basis.

ARTICLE 5. PAYMENT:

5.1 Billing for contracts shall be on a monthly basis. Invoices are due upon receipt. Payment not received within thirty (30) days of invoice date will be subject to a service charge in the amount of one and one-half percent (1.5%) per month. If account is not paid per the terms of this agreement, CONSULTANT is entitled to recover any and all reasonable attorneys' fees related to the collection from the CLIENT. In addition, CONSULTANT reserves the right to suspend all work in any case where invoices remain unpaid more than sixty (60) days from issue.

5.2 This section intentionally deleted

ARTICLE 6. EXTENT OF AGREEMENT:

6.1 These terms and conditions, along with the proposal, represent the entire Agreement between CLIENT and CONSULTANT and supersedes all prior negotiations, representations or agreements, written or oral. The Agreement may be amended only by written instrument signed by CLIENT and CONSULTANT.

ARTICLE 7. TERM:

7.1 Consultant will begin performance of the above services on the date written authorization to proceed is received. The duration of this continuing services agreement shall be through September 30, 2020. The VGMC shall have the option of extending this Agreement for an additional one (1) year term, however, this Agreement will revert to a month-to-month contract under the current terms until such time as a new Agreement is reached.

ARTICLE 8. TERMINATION OF REPRESENTATION:

8.1 In the event Consultant elects to withdraw from representation, or if the VGMC, by a weighted majority vote of the Commission, elects to terminate the services of Consultant, a minimum of 30 days written notice will be provided to the affected party.

ARTICLE 9. CONFLICT OF INTEREST:

9.1 Consultant strives to maintain ethical standards. Consultant represents that it will not perform services that conflict with, or will otherwise impair, its ability to perform the work under this Agreement.

9.2 Consultant agrees that, if changes, including additions, to the facts disclosed by it prior to execution of this agreement, occur during performance of this Agreement, it shall make an immediate and full disclosure of such changes in writing to the Client. Such disclosure may include a description of any action which Consultant has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest.

ARTICLE 10. INSURANCE:

10.1 Consultant agrees to carry the following insurance during the term of this Agreement, and certificates of insurance shall be furnished:

Schedule	Limits
Workers' Compensation Employers Liability (including Appropriate Federal Acts)	Florida Statutory Coverage $100,000 Each Accident $500,000 Disease Policy Limit $100,000 Each Employee/Disease
Commercial General Liability	$1,000,000 Each Occurrence $2,000,000 General Aggregate $1,000,000 Personal/Advertising Injury $5,000 Medical
Auto Liability All autos-owned, hired or non-owned (Symbol 1 Coverage)	$500,000 CSL
Professional Liability (E & O)	$1,000,000

Exhibit B

S&ME

SCHEDULE OF HOURLY RATES

2019 - 2020

Classification	**Hourly Rates**
Project Team Rates Schedule:	
Project Manager	$125.00
Senior Planning Advisor	$145.00
Planning Director	$210.00
Economic Development/Redevelopment Planner	$145.00
Planner/GIS Specialist	$115.00
Transportation Planner	$115.00
Landscape Architect	$145.00
Civil Engineer	$135.00
Additional Rates Schedule of Auxiliary Staff:	
Senior Consultant	$285.00
Principal/Sr. Project Manager/Project Manager/Design Manager	$135.00 to $285.00
Professional Engineer/Landscape Architect/Planner/Geologist	$90.00 to $155.00
Intern Engineer/Landscape Architect/Geologist	$90.00 to $120.00
CAD or GIS Technician/Environmental Specialist/	
Survey Technician/Environmental Technician	$65.00 to $145.00
Administrative	$55.00 to $115.00

Schedule Effective through September 30, 2020

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
VANASSE HANGEN BRUSTLIN, INC.
AND
VOLUSIA GROWTH MANAGEMENT COMMISSION (VGMC)
VGMC FISCAL YEAR 2019 – 2020

VHB PROPOSAL NO. 63110.02

July 31, 2019

This Agreement is composed of Part I, Part II and Exhibit A. Part I includes details of the services to be performed, compensation, and duration of contract. Part II (attached) contains the Terms and Conditions of Agreement, which are the general terms of the engagement between the Volusia Growth Management Commission, hereinafter referred to as the "VGMC", and Vanasse Hangen Brustlin, Inc. VHB (VHB), 225 East Robinson Street, Suite 300, Orlando, FL 32801.

PART I

PROJECT DESCRIPTION

The VGMC is tasked by Section 202.3 of the Volusia County Charter to, "determine the consistency of the municipalities' and the county's comprehensive plans and any amendments thereto with each other." Section 90-37 of the Volusia County Code further defines the VGMC's powers and duties under the Charter.

Historically, VHB has provided to the VGMC the professional planning services necessary to meet the responsibilities defined in both the County Charter and Code of Ordinances. VHB has provided review of comprehensive plan amendments for consistency with the comprehensive plans of adjacent local governments and other substantially affected and aggrieved local governments, as well as a determination as to whether the proposed amendment adversely affects intergovernmental cooperation and coordination.

The scope of services provided to the Commission is more specifically described in the section below.

SCOPE OF SERVICES

1.1 Application Review

Upon receipt of an application from the VGMC Operations Manager, VHB will review the subject comprehensive plan amendment utilizing the rules identified in Sections 90-35(d) and 90-37 of the Volusia County Code. The following will be reviewed as applicable:

- Communication with the VGMC Operations Manager, VGMC Legal Counsel and VGMC Chairman.
- Verbal or written correspondence with the applicant local government, adjacent local governments, other substantially affected or aggrieved local governments, state or local regulatory agencies and interested third parties.
- Preparation of Requests for Additional Information ("RAI").
- Preparation of a Determination of Consistency memorandum to the Chairman for applications determined to be eligible for certification.
- Preparation of a staff report and presentation for applications which require a public hearing before the VGMC.
- Review of additional information as identified in Section 90-37(i) of the Volusia County Code.
- Upon prior approval from the Chairman, meet with the local governments and proponents of a comprehensive plan change to discuss and review planning issues on particular applications to the Commission; in the event there are exigent circumstances to attend such a meeting and prior approval from the chairman is not possible, authorization to attend said meeting may be obtained from the vice chairman or the secretary to the Commission.
- Attendance at VGMC regular meetings and provide oral report on planning activities unless otherwise notified by the VGMC Operations Manager at the time of agenda distribution.
- Attendance at VGMC committee meetings as directed by the committee chair.
- Undertake and/or participate in special projects and prepare reports, such as, but not limited to, the revisions to the Certification Rules, as directed by the Commission.

1.2 Other Duties

Upon prior approval from the Chairman, VHB may also:

- Represent the VGMC at hearings, meetings or workshops relating to comprehensive planning matters.

VHB represents that Erika Hughes will serve as the Project Manager. James Sellen will serve as Principal and will directly supervise the tasks assigned under this Agreement at the hourly rate of $250. Review of comprehensive plan amendments will be primarily performed by Erika Hughes, with assistance from Tyler Johnson with hourly rates of $130 and $100, respectively. VHB agrees that any intended change or substitution in the designated Project Manager or Principal must be approved in advance by the VGMC. To the extent that the billing rates in Exhibit A conflict with the billing rates specified in this Agreement, the billing rates in this Agreement shall prevail.

COMPENSATION

VHB will perform the Scope of Services contained in this Agreement on an hourly basis consistent with the hourly billing rates listed above.

VHB will provide the VGMC monthly notice identifying the assigned individual(s) and corresponding "labor category" of those staff member(s) performing VGMC-related work.

In addition to the labor compensation, VHB shall be reimbursed for expenditures made specifically for the aforementioned scope such as: printing and reprographics; travel and subsistence; computer charges; telephone charges; shipping, postage, and courier service charges; purchase of maps and similar documents; etc. These direct expenses will be billed at cost.

Term

VHB will begin performance of the above services on the date written authorization to proceed is received. The duration of this continuing services agreement shall be one (1) year. The VGMC shall have the option of extending this Agreement for additional one (1) year terms; however, this Agreement will revert to a month-to-month contract under the current terms until such time as a new Agreement is reached.

Terms of Representation

In the event VHB elects to withdraw from representation, or if the VGMC, by a weighted majority vote of the Commission, elects to terminate the services of VHB, a minimum of 30 days written notice will be provided to the affected party.

Conflict of Interest

VHB strives to maintain the highest ethical standards. VHB represents that it will not perform any services that conflict with, or will otherwise impair, its ability to perform to the work under this Agreement.

VHB agrees that, if changes, including additions, to the facts disclosed by it prior to execution of this agreement, occur during performance of this Agreement, it shall make an immediate and full disclosure of such changes in writing to the Client. Such disclosure may include a description of any action which VHB has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest.

Public Records

a. To the extent VHB is acting on behalf of the VGMC as provided under Subsection 119.011(2) of the Florida Statutes, VHB will:

   i. Keep and maintain public records required by the VGMC to perform the services under this Agreement.
   ii. Upon request from the VGMC's custodian of public records, VHB will provide the VGMC 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 otherwise provided by law.
   iii. 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 VHB does not transfer the records to the VGMC.
   iv. Upon completion of the Agreement, transfer, at no cost, to the VGMC public records in possession of VHB or keep and maintain public records required by the VGMC to perform the service. If VHB transfers public records to the VGMC upon completion of the Agreement, VHB shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VHB keeps and maintains public records upon completion of the Agreement, VHB will meet the applicable requirements for retaining public records. Records stored electronically must be provided to the VGMC, upon request from the VGMC's custodian of public records, in a format that is compatible with the information technology systems of the VGMC.

b. If VHB fails to provide the public records to the VGMC within a reasonable time VHB may be subject to penalties under Section 119.10 of the Florida Statutes. Further, the VGMC may exercise any remedies at law or in equity, including, without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate this Agreement in accordance with the terms hereof.

c. IF VHB HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THEY WILL CONTACT THE VGMC'S CUSTODIAN OF PUBLIC RECORDS AT (386-947-1875, vgmc@volusia.org, 140 S. Beach Street, #305, Daytona Beach, FL 32114).

VANASSE HANGEN BRUSTLIN, INC. AUTHORIZATION

By: _____
Paul W. Yeargain, P.E.

Title: Managing Director, Orlando

Date: July 31, 2019

CLIENT AUTHORIZATION

The Volusia Growth Management Commission agrees with Part I which includes the Scope of Services and Compensation. Together they constitute the entire Agreement between Vanasse Hangen Brustlin, Inc. and the Volusia Growth Management Commission

By: _____

Title: _____

Date: _____

STANDARD TERMS AND CONDITIONS. The engagement of VHB by Client is under the following terms and conditions. These terms and conditions are an integral part of the collective Agreement between Client and VHB.

SCOPE OF SERVICES. VHB shall perform the services set forth in the attached Scope of Services. Requests for additional services and any associated fee adjustment must be authorized in writing before additional services can begin.

PERFORMANCE STANDARDS. VHB's services require decisions that are not based upon science, but rather upon judgmental considerations. In the performance or furnishing of professional services hereunder, VHB, and those it is responsible for, shall exercise the degree of skill and care ordinarily exercised by similarly practicing professionals performing similar services under similar conditions in the same locality ("Standard of Care"). VHB shall be entitled to rely on the accuracy and completeness of data, reports, surveys, requirements, and other information provided by Client.

SCHEDULE. VHB shall perform its services as set forth in the Scope of Services as expeditiously as consistent with the Standard of Care and the orderly progress of the Work. VHB shall not be responsible for failure to perform or for delays in the services arising out of factors beyond the reasonable control or without the fault or negligence of VHB.

PAYMENT. The fee estimate for the proposed Scope of Services is valid for 60 days from the date of Proposal. All schedules set forth in the attached Scope of Services commence upon receipt of a signed Agreement and, if requested, a retainer. Retainers will be applied to the last invoice. A RETAINER OF $[ ] IS REQUIRED BEFORE SERVICES WILL COMMENCE.

Invoices will be rendered monthly and are due upon receipt. Any invoice unpaid more than 30 days after date of invoice will bear interest at 1-1/2 percent per month.

If Client fails to pay any invoice within 45 days of the date of invoice, VHB may, without waiving any other claim or right against Client or incurring any liability for delay, suspend the services until VHB has been paid in full. Sealed plans, final documents, reports, and attendance at meetings/hearings will not be provided unless payment for services is current.

If VHB is performing services for Client under multiple projects, payments must be current on all projects for services hereunder to continue. Client acknowledges VHB's right to suspend services and withhold plans and documents, as provided above, if any payments are overdue. If services are suspended for 30 days or longer, upon resuming services VHB shall be entitled to expenses incurred in the interruption and resumption of its services. If services are suspended for 90 days or longer, VHB shall be entitled to expenses incurred in the interruption and resumption of its services and fees for remaining services shall be equitably adjusted.

The parties agree to coordinate invoices to assure timely payment. At minimum, VHB's project manager and Client's representative will confer as often as necessary about any issues involving invoicing and collections. Client's representative will contact VHB's project manager forthwith upon receipt of an invoice about any questions or issues concerning invoiced amounts. If Client's representative and VHB's project manager are unable to resolve any questions or issues, Client's representative will line item any disputed or questionable amount and pay VHB. VHB, at its option, may revise and resubmit disputed amounts at a later date.

Should it become necessary to utilize legal or other resources to collect any or all monies rightfully due for services rendered under this Agreement, VHB shall be entitled to full reimbursement of all such costs, including reasonable attorneys' fees, as part of this Agreement.

OWNERSHIP OF WORK PRODUCT. All work products (whether in hard or electronic form) prepared by VHB pursuant to the Agreement are instruments of service with respect to the Project and are not authorized, intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other Project. Any reuse by Client or a third person or entity authorized by Client without written verification or adaptation by VHB for the specific application will be at Client's sole risk and without liability or legal exposure to VHB. Client shall release, defend, indemnify and hold harmless VHB from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle VHB to additional compensation at rates to be agreed upon by VHB and Client, third person, or entity seeking to reuse said documents.

Client recognizes that information recorded on or transmitted as electronic media, including CADD documents ("Electronic Documents") is subject to undetectable alteration, either intentional or unintentional, due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, the Electronic Documents are provided to Client for informational purposes only and are not represented as suitable for any use or purpose.

VHB retains the copyright in all work products produced in connection with this Agreement, unless otherwise agreed to in writing by an authorized VHB representative. VHB licenses to Client on a non-exclusive basis the use of work products produced solely in connection with this Agreement. The license

may be revoked for any failure of Client to perform under this Agreement.

CERTIFICATIONS. VHB shall not be required to sign any documents, no matter by whom requested, that would result in VHB having to certify, guarantee or warrant the existence of conditions whose existence VHB cannot wholly ascertain. Any certification provided by VHB shall be so provided based on VHB's knowledge, information, and belief subject to the preceding sentence, and shall reflect no greater certainty than VHB's professional opinion developed through and consistent with the Standard of Care. VHB shall be compensated for any work necessary to assess project compliance with regulatory standards for purposes of such certification.

INSURANCE. VHB agrees to carry the following insurance during the term of this Agreement:

- Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits
- Comprehensive General Liability Insurance including Products Completed, Contractual, Property, and Personal Injury coverage with combined single limits of $1,000,000 per occurrence and $2,000,000 in the aggregate
- Professional Liability Insurance with a limit of $1,000,000 per claim and in the aggregate
- Automobile Liability Insurance including non-owned and hired automobiles with a combined single limit of $1,000,000 per occurrence

Certificates of insurance will be furnished upon request. If Client requires additional insurance coverage, and it is available, Client agrees to reimburse VHB for such additional expense.

INDEMNITY. Client and VHB shall at all times indemnify and save harmless each other, their officers, and employees on account of damages, losses, expenses, reasonable counsel fees, and compensation arising out of any claims for damages, personal injuries and/or property losses sustained by any person or entity, to the extent caused by the negligent acts, errors or omissions of the indemnifying party, its employees, or subcontractors in connection with the Project, and/or under this Agreement.

Client agrees to the fullest extent permitted by law, to indemnify and hold harmless VHB, its officers, employees and subconsultants from and against any and all claims, suits, demands, liabilities costs including reasonable attorneys' fees, and defense costs caused by, arising out of, or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products, or material that exist on, about, or adjacent to the job site.

LIMITATION ON VHB'S RESPONSIBILITY AND JOBSITE SAFETY. VHB will not be responsible for the acts or omissions of contractors or others at the Site, except for its own subcontractors and employees. Neither the professional activities of VHB nor the presence of VHB or its employees or subconsultants at a project site shall relieve the other parties on this project of their obligations, duties, and, including, but not limited to, construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, and coordinating the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. VHB and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. Client agrees that Contractor shall be solely responsible for job site safety and warrants that this intent shall be carried out in Client's contract with Contractor.

ALLOCATION OF RISK. In recognition of the relative risks and benefits of the Project to both Client and VHB, the risks have been allocated such that Client agrees that to the fullest extent permitted by law, VHB's total liability in the aggregate to Client and any persons or entities claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the Project and/or this Agreement from any cause or causes, including, but not limited to, VHB's negligence, errors, omissions, strict liability, statutory liability, indemnity obligation, breach of contract or breach of warranty shall not exceed the higher of $50,000 (fifty thousand dollars), or ten (10) percent of the compensation actually paid to VHB. Client and VHB may agree to a higher limitation of liability for an increased fee.

DISPUTE RESOLUTION. All questions in dispute under this Agreement shall be submitted to non-binding mediation as a condition precedent to the institution of legal proceedings. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representative and shall meet within ten (10) days after the service of the notice. The parties shall then attempt to resolve the dispute within ten (10) days of meeting. Should the parties be unable to agree on a resolution of the dispute, then the parties shall proceed with mediation in accordance with the mediation rules of the American Arbitration Association. The cost of mediation shall be borne equally by both parties. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

LEGAL SUPPORT. To the extent VHB is required to respond to any dispute resolution process, including, but not limited to, requests for document production, discovery or a request to appear in any deposition or legal proceeding, which is related to the Scope of Services but does not arise out of VHB's negligent

acts, errors or omissions, Client shall compensate VHB for all costs incurred by VHB, including reasonable attorneys' fees.

DESCRIPTIVE HEADINGS AND COUNTERPARTS. The headings contained in this Agreement are for convenience of reference only and shall not constitute a part hereof, or define, limit or in any way affect the meaning of any of the terms or provisions hereof. This Agreement may be executed in two or more counterparts, and any party hereto may execute any such counterpart, which, when executed and delivered, shall be deemed to be an original and all of such counterparts taken together shall be deemed to be one and the same instrument.

EXCLUSIVE REMEDIES. In the event that any dispute is not remedied through the alternative dispute resolution procedures set forth herein, all claims, actions, and rights of action arising from or relating in any way to this Agreement or the services performed thereunder, whether in contract, tort, indemnity and all other rights of action whatsoever, shall be filed in a court of competent jurisdiction within three years of the completion of such services, or all such claims, actions and rights of action shall be waived. Recovery under this Agreement shall be limited by the parties' agreement on Allocation of Risk and the remainder of this section.

Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any liquidated, incidental, special, indirect or other consequential damages incurred, regardless of the nature of the cause or whether caused by Client or VHB, or their employees, subconsultants, or subcontractors. Consequential damages include, without limitation, loss of use, loss of profits, loss of production, or business interruption; however, the same may be caused.

VHB and Client waive all claims against each other arising out of or related to this Agreement or the services to the extent that losses, damages, and liabilities associated with such claims have been compensated by the proceeds of property insurance or any other insurance policy.

VHB makes no warranties or guarantees, express or implied, under this Agreement or any other contract document with respect to its provision of professional services. In entering into this Agreement, Client has relied only upon the representations set forth in this Agreement. No verbal warranties, representations, or statements shall be considered a part of this Agreement or a basis upon which Client relied in entering into this Agreement.

NO THIRD PARTY BENEFICIARIES. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either Client or VHB. In addition, nothing herein shall be construed as creating a contractual relationship between Client and any VHB employee, representative, or consultant. Client agrees that in the event of a dispute regarding this Agreement or the services rendered by VHB hereunder, Client shall only seek recourse against VHB and waives any right to pursue a claim against VHB's individual directors, officers or employees.

VHB's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce VHB's Scope of Services, Client hereby agrees to release, hold harmless, defend, and indemnify VHB from any and all claims, damages, losses or costs associated with or arising out of such reduction in services.

SEVERABILITY. The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

TAXES. Any taxes or fees, enacted by local, state, or federal government and based on gross receipts or revenues, will be invoiced to and payable by Client as an additional amount due under this Agreement.

PROJECT SPECIFIC PROVISIONS. To the extent the Scope of Services involves any of the following services/geographies, the following general provisions apply accordingly:

AMERICANS WITH DISABILITIES ACT (ADA). Client understands and agrees that ADA standards are evolving and subject to varying, potentially contradictory interpretations and applications. VHB will use its reasonable professional efforts and judgment to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances, and regulations as they apply to the project. VHB cannot and does not warrant or guarantee that Client's Project will comply with all ADA requirements or ADA interpretations or other applicable regulatory interpretations.

CLIMATE CHANGE/FLOOD ANALYSIS. Consultant shall not be responsible or liable for any damages, losses, litigation, expenses, counsel fees and compensation arising out of any claims, damages, personal injuries and/or property losses related to flooding conditions whether directly or indirectly due to flood water damage, and Client shall at all times indemnify and hold harmless VHB, its respective officers, agents and employees on account of any related claims, damages, losses, expenses and counsel fees related thereto.

CONSTRUCTION PHASE SERVICES

SITE VISITS. VHB shall make periodic site visits upon the request of Client or as otherwise agreed in writing by Client and VHB for

the limited purpose of determining whether work is in general conformance with VHB's plans and specifications. Such visits are not intended to be an exhaustive check or a detailed inspection of Contractor's work. VHB shall not supervise or have control over Contractor's work nor have any responsibility for construction ways, means, methods, techniques, sequences, or procedures selected by Contractor nor for Contractor's safety precautions or programs in connection with the Work.

SHOP DRAWINGS. VHB's review and approval of submittals such as shop drawings, product data, samples, and other data, shall be for the limited purpose of checking for conformance with the design concept and the information in VHB's documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades, or construction safety precautions, all of which are the sole responsibility of Contractor and other unrelated parties. Review of a specific item shall not indicate that VHB has reviewed the entire assembly of which the item is a component. VHB shall not be responsible for any deviations from VHB's documents or other documents that are not brought to the attention of VHB in writing by Contractor. VHB shall not be required to review partial submissions or those for which submission of correlated items have not been received.

GEOTECHNICAL SERVICES. Client understands that VHB does not perform geotechnical services directly and, if requested, will retain a geotechnical subconsultant on behalf of Client, and VHB shall rely on the accuracy and completeness of data furnished as if the geotechnical services were contracted directly through Client.

TANK INSPECTION. Client will provide VHB with available underground storage tank (UST) documentation as necessary. VHB assumes that the documentation and site plans will be in order, be complete and meet regulatory compliance standards. VHB's inspection services are to fulfill regulatory requirements and do not include invasive testing or equipment calibration and testing. Accordingly, Client expressly agrees that VHB shall have no liability for equipment functioning or malfunctioning, product releases or spills.

LSP SERVICES – PROJECTS LOCATED IN MASSACHUSETTS. In accordance with the Massachusetts General Laws Chapter 21E, the performance of the services contained in this Agreement may require the engagement of a Licensed Site Professional (LSP) registered with the Commonwealth of Massachusetts under Massachusetts General Law Chapter 21A and the regulations promulgated by the Massachusetts Department of Environmental Protection (MADEP) thereunder (collectively the LSP Program). These laws and regulations place upon the LSP certain professional obligations owed to the public, including in some instances a duty to disclose the existence of certain environmental contaminants to the MADEP. In the event that any site for which VHB has provided LSP services is audited by MADEP pursuant to the provisions of the Massachusetts Contingency Plan, VHB shall be entitled to additional compensation to provide such services as may be necessary to assist Client in its response to MADEP.

Client understands and acknowledges that in the event the LSP's obligations under the LSP Program conflict in any way with the terms and conditions of this Agreement or the wishes or intentions of Client, the LSP is bound by law to comply with the requirements of the LSP Program. Accordingly, Client recognizes that the LSP shall be immune for all civil liability resulting from any alleged and/or actual conflict with the LSP Program. Client also agrees to hold VHB and its LSP harmless for any claims, losses, damages, fines, or administrative, civil, or criminal penalties resulting from the LSP's fulfillment of its obligations under the LSP Program.

PROJECTS LOCATED IN FLORIDA. FLORIDA STATUTES SECTION 558.0035 (2013), AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF THIS AGREEMENT

Exhibit A
Vanasse Hangen Brustlin, Inc.
HOURLY BILLING RATES
Effective September 9, 2018

BILLING CODE	LABOR CATEGORY	HOURLY RATE
260	Technical/Professional 26	$350
250	Technical/Professional 25	$325
240	Technical/Professional 24	$300
230	Technical/Professional 23	$275
220	Technical/Professional 22	$250
210	Technical/Professional 21	$240
200	Technical/Professional 20	$230
190	Technical/Professional 19	$220
180	Technical/Professional 18	$210
170	Technical/Professional 17	$200
160	Technical/Professional 16	$190
150	Technical/Professional 15	$180
140	Technical/Professional 14	$170
130	Technical/Professional 13	$160
120	Technical/Professional 12	$150
110	Technical/Professional 11	$140
100	Technical/Professional 10	$130
090	Technical/Professional 09	$120
080	Technical/Professional 08	$110
070	Technical/Professional 07	$100
060	Technical/Professional 06	$90
050	Technical/Professional 05	$80
040	Technical/Professional 04	$70
030	Technical/Professional 03	$60
020	Technical/Professional 02	$50
010	Technical/Professional 01	$40
350	Technical/Support 5	$80
340	Technical/Support 4	$70
330	Technical/Support 3	$60
320	Technical/Support 2	$50
310	Technical/Support 1	$40
500	Court Testimony Starts at	$350

Reimbursable and sub-consultant expenses are billed at cost plus 10%.