

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is made and entered into this ____ day of _____ 20__, by and between **THE VILLAGE OF INDIANTOWN**, a Florida municipal corporation (hereinafter the "VILLAGE") and **CAPTEC ENGINEERING, INC.**, a Florida corporation (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the VILLAGE is a political subdivision of the State of Florida, having a responsibility to provide certain services to benefit the citizens of the VILLAGE OF INDIANTOWN; and

WHEREAS, the VILLAGE has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is in the business of professional engineering services in VILLAGE and elsewhere in the State of Florida; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

WHEREAS, CONTRACTOR was a successful proposer for an advertised Request for Proposals identified as RFP #2020-05 which satisfies the VILLAGE's Procurement Policy; and

WHEREAS, the VILLAGE has followed and complied with the selection and negotiation process in accordance with the Florida Consultants' Competitive Negotiation Act (Section 287.055, Florida Statutes, as amended).

WHEREAS, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any proposal documents issued in connection with this project.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.
2. **Description of Work.**

- a. The VILLAGE hereby retains CONTRACTOR to furnish services as described in the Scope of Services, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.
 - b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.
 - c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the VILLAGE, together with any addenda, hereinafter the "Bid Documents, as applicable." The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.
3. **Commencement and completion/Term.**
 - a. CONTRACTOR must commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed, and must complete the work within the timeframes specified in Exhibit "A".
 - b. Liquidated damages will be assessed against CONTRACTOR in the amount of [\$0] per day, for each day after [N/A] that the work contemplated by this Agreement is incomplete.
4. **Payment.**
 - a. The VILLAGE agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in Exhibit "A", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Services, but in no event will CONTRACTOR be paid more than the negotiated amount set forth in Exhibit "A".
 - b. Progress payments, if any, will be made as set forth in Exhibit "A".
 - c. The VILLAGE reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.
5. **Acceptance of work product, payment, and warranty.** Upon receipt of a periodic work product, or notice that work has progressed to a point of payment in accordance with Exhibit "A" attached or the Bid Documents, if any, together with an invoice sufficiently itemized to

permit audit, the VILLAGE will diligently review those documents. When it finds the work acceptable under this Agreement the installment payment, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in Exhibit "A". CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the VILLAGE) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the VILLAGE in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the VILLAGE for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the VILLAGE any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein. Neither inspection nor payment, including final payment, by the VILLAGE will relieve CONTRACTOR from its obligations to do and complete the work product in accordance with this Agreement.

6. Termination.

- a. Termination at Will: This Agreement may be terminated by the VILLAGE in whole or in part at any time without cause by the VILLAGE giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- b. Termination for Cause: This Agreement may be terminated by either party for cause by the VILLAGE or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

7. Project management.

- a. The Project Managers for this project are as follows. Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 8 below and does not require an amendment to this Agreement.
- b. VILLAGE's Project Manager is: Howard Brown, Village Manager.
- c. CONTRACTOR's Project Manager is: Joseph W. Capra, P.E.

- 8. Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to:

- a. To VILLAGE: Indiantown Village Council, Attention: Village Manager, 15516 SW Osceola St., Suite B, Indiantown, Florida 34956;
- b. To CONTRACTOR: CAPTAC Engineering, Inc., Attention: Joseph W. Capra, P.E., President, 301 N.W. Flagler Ave., Stuart, FL 34994.

9. **Insurance.**

- a. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the VILLAGE from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
- b. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:
 - i. Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$500,000.00 each accident, \$500,000.00 each employee, \$500,000.00 policy limit for disease;
 - ii. Commercial General Liability (CGL) insurance with a limit of not less than \$300,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project in the amount of \$600,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00;
 - iii. Commercial Automobile Liability Insurance with a limit of not less than \$300,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
 - iv. Fire damage liability shall be included at \$300,000.00.
- c. CONTRACTOR must furnish the VILLAGE with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The VILLAGE is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30 day notification clause in the event

of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the VILLAGE before commencement of any work activities.

- d. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

10. **General Provisions.** CONTRACTOR must comply with the following general provisions:

- a. **Bond.** If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the VILLAGE, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the VILLAGE to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the VILLAGE. The VILLAGE will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the VILLAGE.
- b. **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.
- c. **Personal nature of Agreement; Assignment.**
 - i. The parties acknowledge that the VILLAGE places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the VILLAGE.
 - ii. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the VILLAGE Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.
- d. **Discrimination.**
 - i. CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity,

race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.

- ii. CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.

e. **Independent contractor.**

- i. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the VILLAGE. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the VILLAGE. None of the benefits, if any, provided by the VILLAGE to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the VILLAGE to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the VILLAGE and is subject to the VILLAGE's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The VILLAGE will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.
- ii. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.
- iii. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

f. **Indemnification.**

- i. CONTRACTOR must indemnify and hold the VILLAGE harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the VILLAGE, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors).

CONTRACTOR must further indemnify the VILLAGE against any claim that any product purchased or licensed by the VILLAGE from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the VILLAGE by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the VILLAGE and not considered to be the VILLAGE's exclusive remedy.

- ii. In the event that any claim in writing is asserted by a third party which may entitle the VILLAGE to indemnification, the VILLAGE must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the VILLAGE decides to participate in the proceeding or defense, the VILLAGE will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.
 - iii. The indemnification provisions of this paragraph will survive the termination of this Agreement.
- g. **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed to extend, the VILLAGE's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the VILLAGE to be sued by third parties in any matter arising out of this Agreement.
- h. **Public records.**
- i. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:
 - 1. Keep and maintain public records required by the VILLAGE to perform the service.
 - 2. Upon request from the VILLAGE's custodian of public records, provide the VILLAGE 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 or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the VILLAGE.
 4. Upon completion of this Agreement, transfer, at no cost, to the VILLAGE all public records in possession of CONTRACTOR or keep and maintain public records required by the VILLAGE to perform the service. If CONTRACTOR transfers all public records to the VILLAGE upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the VILLAGE, upon request from the VILLAGE's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.
- ii. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
 - iii. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
 - iv. CONTRACTOR consents to the VILLAGE's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by VILLAGE.
 - v. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the VILLAGE.
 - vi. **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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, SUSAN A. OWENS, VILLAGE CLERK, AT 772-285-7740, sowens@indiantownfl.gov; MAILING ADDRESS: 15516 SW OSCEOLA ST., SUITE B, INDIANTOWN FL 34956.**
- i. **Federal or State Funding.** If any portion of the funding for this Agreement is derived from the State of Florida, or any department of the State of Florida, or from federal funding through the State of Florida, the provisions of this sub-paragraph shall apply, provisions elsewhere in this Agreement to the contrary notwithstanding.

CONTRACTOR shall make inquiry from the VILLAGE's Project Manager to determine whether Federal or State funding is applicable to this Agreement.

- i. E-Verify. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR during the Term of this Agreement.
- ii. Agency. CONTRACTOR agrees and acknowledges that it, its employees, and its subcontractors are not agents or employees of the Federal Government, of the State of Florida, or of any department of the Federal Government or the State of Florida.
- iii. Indemnification. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the VILLAGE, the Federal Government, the State of Florida, any department of the Federal Government or the State of Florida, and all officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the VILLAGE's sovereign immunity.
- iv. Workers' Compensation Insurance. CONTRACTOR must provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, CONTRACTOR must ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), CONTRACTOR must ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. CONTRACTOR must ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- v. Liability Insurance. Contractor shall carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. CONTRACTOR shall cause the State of Florida to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the State of Florida as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess

policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to this Agreement. The policy/ies and coverage described herein may be subject to a deductible. CONTRACTOR shall pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. At all renewal periods which occur prior to final acceptance of the work, the VILLAGE and the State of Florida shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The VILLAGE and the State of Florida shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The VILLAGE's or the State of Florida's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the VILLAGE or the State of Florida may have.

- vi. Inspections. CONTRACTOR shall permit, and require its subcontractors to permit, the VILLAGE's and the State of Florida's authorized representatives to inspect all work, materials, payrolls, and records, to audit the books, records, and accounts pertaining to the financing and development of the Services described in the Contract Documents.
- vii. Auditor General Cooperation. CONTRACTOR shall comply with §20.055 (5), Florida Statutes, and shall incorporate in all subcontracts the obligation to comply with §20.055 (5), Florida Statutes.

- j. **Federal-Aid Construction Contract.** If this is a federal-aid construction project, it shall be subject to the provisions in Exhibit "A", which is attached hereto and incorporated herein by reference.

11. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

- a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.
- b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the VILLAGE staff do not suffice to legally bind the VILLAGE in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized VILLAGE representatives.
- c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

- d. **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- e. **Construction.** If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- f. **Headings.** All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.
- g. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the VILLAGE's rights under this Agreement, or of any cause of action the VILLAGE may have arising out of the performance of this Agreement.
- h. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.
- i. **Law; Venue.** This Agreement is being executed in Martin County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Martin County, Florida.

12. Special Provisions.

- a. This Agreement is a non-exclusive contract; the VILLAGE is not prohibited, or deemed to be prohibited, from bidding similar services either as an independent job or a component of a larger project.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

VILLAGE OF INDIANTOWN, a Florida
municipal corporation

JANET HERNANDEZ
MAYOR

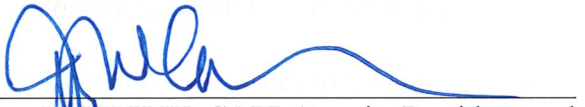
ATTEST:

(Seal)

SUSAN A. OWENS, VILLAGE CLERK

Date signed by VILLAGE: _____

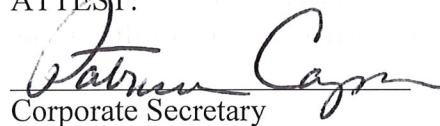
CAPTEC ENGINEERING, INC.

by 

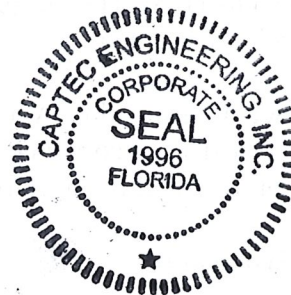
JOSEPH W. CAPRA, as its President and
authorized agent

(CORPORATE SEAL)

ATTEST:


Corporate Secretary

Patricia Capra
Print name here





WASTEWATER & RECLAIMED WATER UTILITY MASTER PLAN



EXHIBIT A – SCOPE OF ADDITIONAL SERVICES #1

PREFACE

The professional services necessary for this Village of Indiantown project will be consistent with the adopted goals, objectives and programs of the Village of Indiantown Council (VOI)(CLIENT).

SCOPE OF WORK

CAPTEC Engineering, Inc. (ENGINEER) was selected to provide Professional Engineering Services related to Village of Indiantown RFP-2020-005 for FDEP State Revolving Funding (SRF) and/or USDA Rural Development Compliant Master Planning, Final Design, Permitting and Agency Coordination, Bidding, Construction Management and Project Close-Out Services for Water and Wastewater Improvements. The overall Master Planning Scope of Services is generally divided into sections of Potable Water, Wastewater, and Reclaimed Water. However, this scope of services consists only of Master Planning Services for CLIENT's Wastewater and Reclaimed Water Utilities Systems for this work authorization. ENGINEER will provide the Potable Water Master Planning Services under a separate authorization simultaneously with this work. ENGINEER is the primary consultant for overseeing the master planning process, and ENGINEER's "Team" includes two subconsultants: Dover Engineering, PLLC (DE); and CHA Consulting, Inc. (fka Reiss Engineering, Inc.) that will provide support services for the project. This Amendment #1 is for drawdown testing of the VOI existing Lift Stations to determine existing pumping capacities as set forth below.

TASK 3: LIFT STATION DATA COLLECTION SERVICES

- 3.1 Progress Meetings** – ENGINEER's Team will attend up to three (3) videoconference progress meetings to coordinate field testing, discuss test results, and to review Indiantown staff comments.
- 3.2 Pump Station Drawdown Tests** – ENGINEER will collect performance data at 12 of VOI's Lift Stations and conduct the drawdown tests with assistance from the VOI Utility Department staff. ENGINEER's Field Team will consist of one Engineer collecting drawdown/inventory data with support from the VOI Utility Department to provide access, operate the pumps and install pressure gauges downstream of check valves.

The purpose of the drawdown testing is to determine the flow characteristics of each lift station pumping unit (verify a single point on the operating curve for each pumping unit), as well as to diagnose potential problems (such as a major disparity between pumping rates achieved by pumps within a common wet well, excessive noise, indications of a restriction in the discharge piping, etc.). Raw drawdown test results data will be submitted to Indiantown in electronic format (Excel, or similar).

A member of the VOI Utility Department's operations staff, familiar with the wastewater lift station operation and maintenance, will accompany the ENGINEER and will be responsible for accessing stations, extracting pumps from the wet wells for observation by the Field Engineer, for operating the pump station during drawdown tests, for placing a functioning, calibrated pressure gauge on the pump discharge piping, and for any necessary coordination with VOI staff at upstream and/or downstream facilities.

ENGINEER will only perform visual observations and will not enter confined spaces, open any electrical panels, or disassemble any equipment. ENGINEER will collect data

using a mobile device, drawdown form templates and will take photos of all assets tested. It is understood that VOI will provide the pump make, model and impeller.

No destructive or otherwise invasive testing will be completed. If more detailed inspections or analyses are recommended based on the initial on-site assessment, VOI's operations staff will be responsible for additional information.

It is understood that the ENGINEER will discuss with VOI staff the schedule for collecting the data. As such, no other daily meetings are anticipated or budgeted.

Drawdown results will be tabulated and plotted on each stations' manufacturer pump curve and submitted to VOI Utility staff. ENGINEER will review the data collected by the field team and will perform final quality control checks on the data. A draft data set documented where each tested station's pumps are operating relative to their pump curves will be issued to VOI for review. Recommendations for additional VOI asset management investigations will be provided.

3.3 Hydraulic Model Update – ENGINEER will calculate calibrated pump curves for each station and will input the updated curves into the VOI hydraulic model. ENGINEER will provide a table of projected performance for each station for use in future pump upgrades. ENGINEER will provide the drawdown spreadsheet and revised hydraulic model to VOI in electronic form. The Wastewater & Reclaimed Water Utility Master Plan will be revised (updated) to incorporate the drawdown test data and updated hydraulic model information. Coordination with VOI for review of the draft revised Master Plan and the final revised Master Plan is included herein.

3.4 Lift Station Drawdown Tests Deliverables - ENGINEER's services under the Drawdown Tests Additional Services Phase will be considered complete on the date when ENGINEER has delivered to CLIENT the final Report (as revised) and the other deliverables, as follows:

1. A digital copy (PDF) of the draft revised Master Plan will be delivered through file sharing software for the CLIENT's review.
2. A digital copy (PDF) of the final revised Master Plan will be delivered through file sharing software for the CLIENT's use.
3. A digital copy (PDF) of the Lift Station Drawdown Test Summary.
4. The revised Hydraulic Models will be included in the revised Master Plan in the format established during the kickoff meeting.

TASK 4: ADDITIONAL SERVICES

Any other Additional Services Require Owner's Written Authorization – ENGINEER would be pleased to provide any additional services requested by CLIENT. Additional services will not be performed unless CLIENT specifically requests them, and an addendum to this agreement is executed. Additional services will be paid for by CLIENT as indicated in the addendum to this agreement.

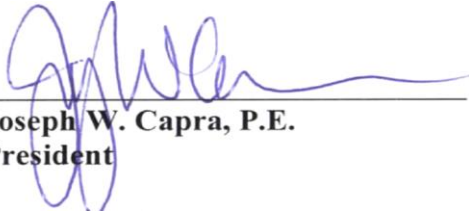
EXHIBIT B – TIME OF PERFORMANCE

TASK - DESCRIPTIONS	Time of Performance
Task 3 – Lift Station Data Collection Services	2 Months from Notice to Proceed

EXHIBIT C - TASK FEE SCHEDULE

TASK - DESCRIPTIONS	Fees
Task 3 – Lift Station Data Collection Services	\$ 25,000.00

As to **ENGINEER**
CAPTEC Engineering, Inc.



Joseph W. Capra, P.E.
President

As to **CLIENT**

Village of Indiantown, Manager

Dated: January 25, 2022

Dated: _____

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EXHIBIT D

CAPTEC HOURLY RATE & REIMBURSABLE EXPENSE SCHEDULE

Principal / Expert Witness	\$ 205.00/hour
Sr. Principal / PE	\$ 180.00/hour
PE / Construction Director	\$ 175.00/hour
PE / Quality Control Manager	\$ 170.00/hour
PE / Engineering Manager	\$ 155.00/hour
PE / Sr. Project Manager	\$ 140.00/hour
Project Design Manager / EI	\$ 130.00/hour
Construction Project Manager	\$ 115.00/hour
Project Design Engineer / EI	\$ 110.00/hour
Assistant Project Designer	\$ 105.00/hour
Project Design Engineer	\$ 95.00/hour
Field Representative / Sr. Inspector	\$ 95.00/hour*
Civil Design Technician	\$ 90.00/hour
Office Manager	\$ 70.00/hour
Project Coordinator	\$ 60.00/hour

*Includes travel / mileage costs

REIMBURSABLE EXPENSE SCHEDULE

Reimbursable Expense	Actual/Estimated Cost	Cost
Mileage	Actual	\$.325/mile
Tolls	Actual	varies
Overnight Deliveries	Estimated*	Ground: \$5 Letter: \$20 Pak: \$25 Tube: \$30 Box: \$35
Printing (in-house): B/W Xeroxing Color: Letter Legal Ledger Blueprints Color Half-size B/W Blueprints Half-size Color Blueprints Mylars	Actual	\$.05 per page \$.25 per page \$.50 per page \$1 per page \$2.00 per sheet \$4.00 per sheet \$.50 per sheet \$1.50 per sheet \$5.00 per sheet
Long Distance Calls/ Teleconferencing Calls	Actual	
CAD Conversion of Files	Actual time spent	\$130/hour
Printing (outside source)	Actual	
CD	Actual	\$1/ea.

*Actual cost depends upon package weight.