

FUNDING AGREEMENT BETWEEN
THE TOWN OF KENNETH CITY
AND
PINELLAS COUNTY
FOR
STORMWATER LAKES WATER QUALITY PROJECT

THIS AGREEMENT is entered into this ^{18th} ~~7th~~ day of JUNE, 2017, by Pinellas County, a political subdivision of the State of Florida ("County"), and the Town of Kenneth City, a municipality of the State of Florida within Pinellas County ("Kenneth City") (this "Agreement").

WITNESSETH:

WHEREAS, County received funds through a settlement with parties responsible for the Deepwater Horizon accident which affected the Gulf of Mexico and communities in the region including Pinellas County;

WHEREAS, County has identified and approved projects intended to benefit the public or that serve a public benefit that the Pinellas County Board of County Commissioners intends to be enhanced with funding from the aforementioned settlement;

WHEREAS, on December 13, 2016, the Pinellas County Board of County Commissioners approved Resolution 16-90 delegating to the County Administrator the authority to enter into agreements with entities necessary to effectuate the approved projects within the amounts approved by the Pinellas County Board of County Commissioners for each project; and

WHEREAS, Kenneth City is one of the entities necessary to effectuate the "Kenneth City Pond Fountains" Project approved by the Pinellas County Board of County Commissioners, which proposes to install fountains and diffusers in three Kenneth City stormwater lakes to improve water quality (the "Project").

NOW THEREFORE, in consideration of the mutual terms, covenants, representations, and conditions herein contained, the parties agree as follows:

1. Performance of Services:

Kenneth City shall complete the Project in accordance with (1) the Scope of Services and (2) the Project Budget, which are attached hereto and incorporated herein as Exhibits A and B respectively, by September 30, 2018. For purposes of this Agreement, the Project shall be considered complete once all line items under the "Design" and "Construction" sections of the Project Budget have been completed and invoiced to the County in accordance with Section Two (2) of this Agreement below.

Kenneth City shall comply with all terms and conditions of the Scope of Services and Project Budget. Kenneth City shall be responsible for the professional quality, technical accuracy,

timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by Kenneth City under this Agreement. Kenneth City shall orally consult with County regarding the Project on a monthly basis or at any time upon County's request.

2. Funding:

County agrees to provide up to \$22,500.00 for the Project on a matching reimbursement basis in accordance with the following:

After the Project is complete and no later than September 30, 2018, Kenneth City shall deliver an itemized project invoice ("Invoice") to the County that details the total project costs.

Together with the Invoice, Kenneth City shall submit a certification that (1) the Invoice is accurate, that (2) Kenneth City has expended all invoiced funds in furtherance of the Project, and (3) that Kenneth City has expended non-invoiced (matching) funds in at least the invoiced amount in furtherance of the Project ("Certification"). Also together with the Invoice, Kenneth City shall submit a project completion report, summarizing how the cumulative amount of invoiced and non-invoiced funds have been expended for Project completion along with comprehensive evidence thereof ("Project Completion Report").

Within forty-five (45) days of receiving the Invoice, County shall either: (1) provide full payment to Kenneth City for the Invoice; or (2) if County finds the Invoice, Certification, or Project Completion Report unacceptable for any reason, provide written notice to Kenneth City of any defects. If County provides a written notice of defects, Kenneth City shall have thirty (30) days from receipt of said notice to cure said defects and provide written evidence of same to County; if Kenneth City fails to cure the defects within the requisite timeframe, or if County finds the evidence of such corrections to be defective for any reason, this Agreement is subject to termination with cause in accordance with Section Four (4) below.

3. Agreement Term:

This Agreement shall become effective upon execution by both parties and expire on December 31, 2018, unless terminated earlier as provided in Section Four (4) below.

4. Termination:

This Agreement may be terminated in writing by either party: (1) without cause upon fifteen (15) days of receipt of notice of termination by the other party; or (2) with cause immediately upon receipt of a notice of termination by the other party. If County terminates the Agreement with cause, Kenneth City shall, within seven (7) days of receipt of such notice, refund to County all funding awarded to Kenneth City by County under this Agreement.

In accordance with Section Five (5) below, any termination notice shall be sent by e-mail or USPS Certified Mail and deemed delivered or received on the date reflected by the e-mail read receipt or certified mail delivery receipt.

This Agreement may also be terminated at any time by mutual written agreement of the parties.

5. Project Managers and Notice:

In order to assure proper coordination and review throughout the term of this Agreement, Kenneth City and County each designate a "Project Manager" as follows:

Kenneth City
Matthew Campbell, Town Manager
Town of Kenneth City
6000 54th Avenue North
Kenneth City, FL 33709
campbellm@kennethcityfl.org

COUNTY
Kelli Levy, Division Director
Pinellas County Environmental Management
22211 US Hwy 19 N, Bldg. 10
Clearwater, FL 33765
klevy@pinellascounty.org

The Project Managers shall be responsible for transmitting and receiving all communications concerning this Agreement to the other party. All notices, invoices, approvals, and other correspondence required by law and this Agreement shall be in writing and delivered via e-mail or USPS Certified Mail to the respective Project Manager. Notice shall be considered delivered or received as reflected by an e-mail read receipt or a certified mail delivery receipt.

6. Payment Limitations and Fiscal Non-Funding:

Project costs incurred prior to the effective date of this Agreement are not fundable under this Agreement.

County shall not be responsible for the operation, maintenance, or capital refreshment of any assets resulting in any way from the Project.

This Agreement is not a general obligation of County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of this Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by County for any or all of this Agreement, County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. County agrees to promptly notify Kenneth City in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to County.

7. Records and Audit:

Kenneth City agrees:

a) To retain all data, financial records, statistical records, and any other records (including electronic storage media) pertinent to this Agreement ("Records") for a period of three (3) years after termination or expiration of this Agreement or, if an audit has been initiated in accordance with subsection c) of this Section Seven (7) below and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings.

b) To maintain all Records in accordance with generally accepted accounting procedures and practices that sufficiently and properly reflect all revenues and expenditures of funds provided by County under this Agreement.

c) To assure that all Records are subject at all reasonable times for inspection, review, audit, copy, or removal from premises by County personnel and other personnel duly authorized by County.

d) To fully comply with the provisions of Chapter 119, Florida Statutes, as applicable.

e) To include all requirements in this Section Seven (7) in all approved contracts and subcontracts under this Agreement.

8. Indemnification and Non-Agency Relationship:

To the greatest extent under applicable law, Kenneth City agrees to indemnify and defend County, its officers, and employees, against all claims of any nature arising out of the Project. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S. Further, nothing herein shall be construed as consent by either party to be sued by third parties in any manner arising out this Agreement or contracts related thereto.

Kenneth City acknowledges that is an independent party and not an agent of County.

9. Modification of Agreement:

This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

10. Assignment:

This Agreement may not be assigned by either party without the prior written consent of

the other party. The parties each bind itself, its successors, assigns, and legal representatives to the other party hereto and to the successors, assigns, and legal representatives of such other party in respect to all covenants and obligations contained herein.

11. Compliance with Applicable Laws:

Kenneth City shall ensure that at all times and in all aspects of the Project, its employees, agents, and contactors are in compliance with all applicable Federal, state, and local laws.


12. Governing Laws:

This Agreement and the rights and obligations of the parties hereto shall be governed and construed according to the laws of the State of Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed, as of the day and year first above-mentioned.

PINELLAS COUNTY, FLORIDA

BY: 
Mark S. Woodard, County Administrator

Approved as to Form:

BY: 
Assistant County Attorney

TOWN OF KENNETH CITY, FLORIDA

BY: 
Matthew Campbell, Town Manager

ATTEST: 

TOWN OF KENNETH CITY
STORMWATER LAKES WATER QUALITY PROJECT
SCOPE OF WORK

I. Description of Project

In an effort to improve water quality in an aesthetic manner, the Town of Kenneth City is proposing the installation of fountains and aerators within three (3) stormwater lakes. These facilities will be installed within Lake Thomas, Lake Paul & Lake Lori. Please see the attached exhibit for specific location information.

II. Scope of Services

The Scope of Services shall consist of the following:

DESIGN

1. The Town's engineering consultant shall coordinate with Duke Energy to set up accounts for the new meters and identify construction requirements. Bid documents will be prepared and the Town's engineering consultant will perform bidding and construction administration (CA) services.

CONSTRUCTION

The Contractor will be selected through a competitive bidding process. Once the contract is awarded, the Contractor will perform the following tasks:

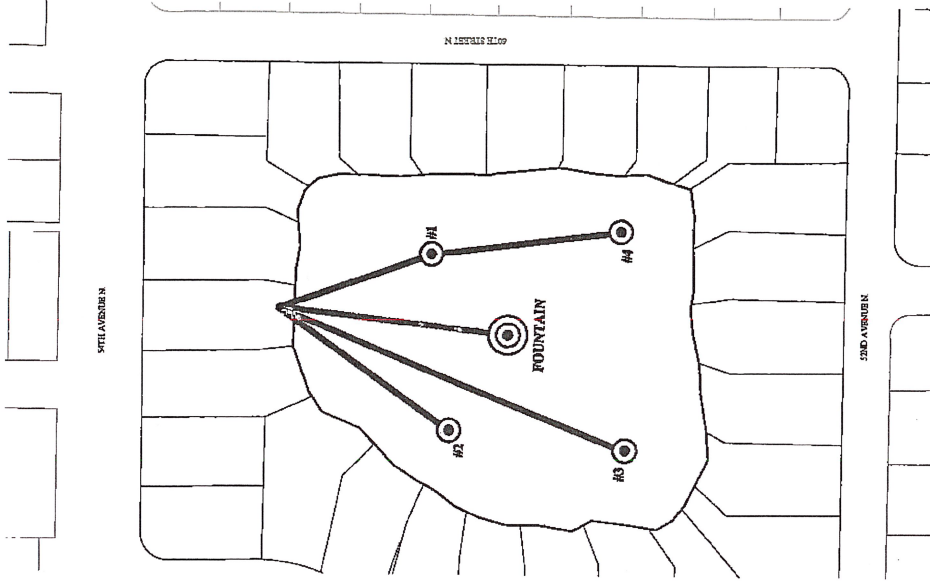
1. The Contractor will mobilize labor and equipment to the site.
2. The Contractor will oversee the installation of three (3) electric drops and pedestals by Duke Energy (one (1) at each lake). The Contractor shall construct buried electric from the pedestal to the proposed meter/disconnect location.
3. The Contractor shall construct a ½ horsepower fountain and three to four diffused aerators within each pond. The Contractor shall construct an electric support rack to house the utility meter, disconnect and other equipment. The aerator shall be housed within a composite cabinet.
4. The Contractor shall restore the construction area utilizing a sod species that matches the surrounding area.

III. Schedule

The Town of Kenneth City will provide Pinellas County with a digital version of the bidding document within sixty (60) days of contract approval. The Town anticipates a sixty (60) day bidding and award period and a sixty (60) day construction period. The total duration of the project shall be one hundred and eighty (180) days.



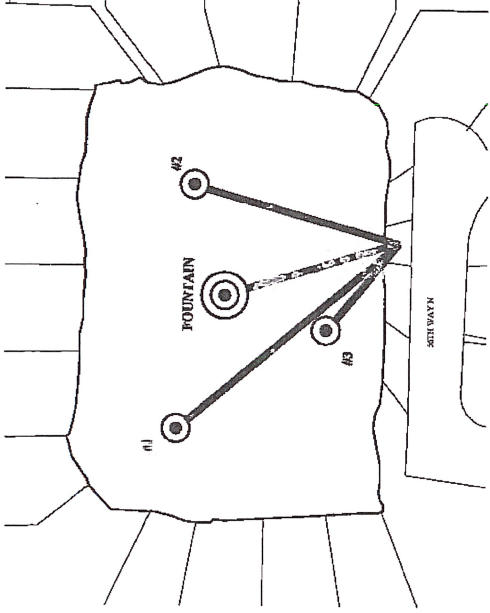
Sheet A
Page 1



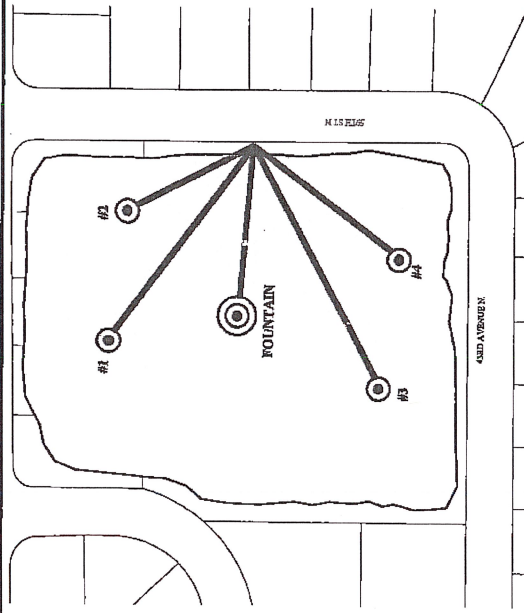
LAKE THOMAS
SCALE: 1"=50'

DATE: 1/17/12
 PROJECT NO: 15-KC-21
 SHEET NO: **FIG 1**

**PROJECT LOCATION /
 SCOPE OF WORK**

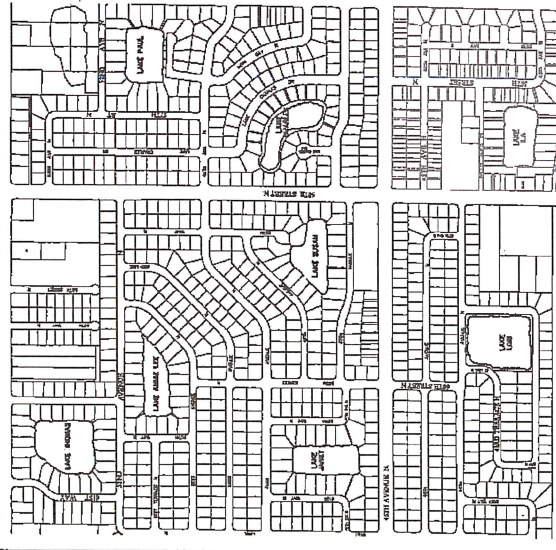
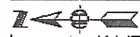


LAKE PAULL
SCALE: 1"=50'



LAKE LORI
SCALE: 1"=50'

**TOWN OF KENNETH CITY
 POND AERATION PROJECT**



SCOPE OF WORK
SCALE: 1"=400'

- LEGEND:**
- FOUNDATION
 - WEIGHTED AERATION
 - POWER CABLE

SCALE:	AS SHOWN
DESIGNED BY:	BAT
CHECKED BY:	VJC
APPROVED BY:	WJR

NO.	REVISIONS	BY	DATE

ADVANCED
 ENGINEERING & DESIGN, INC.
 CIVIL - MECHANICAL - ELECTRICAL - PLUMBING - LANDSCAPE
 100 WEST AVENUE SOUTH, FOND DU LAC, WI 53420-2000
 TEL: 920.922.1100 FAX: 920.922.1101 WWW.AEDINC.COM

Exhibit B

Town of Kenneth City					
Stormwater Lakes Water Quality Project					
Preliminary Opinion of Probable Project Cost					
Pay Item No.	Description	Quantity	Unit	Unit Price	Total
D					
DESIGN					
A-D-1	Power Company Coordination / Bid Document Prep / Bidding & CA Services	1	LS	\$ 3,750.00	\$ 3,750.00
C					
CONSTRUCTION					
A-C-1	Mobilization	1	LS	\$ 3,000.00	\$ 3,000.00
A-C-2	Duke Energy New Account Setup / Construct Three (3) Drops & Pedestals	3	EA	\$ 1,500.00	\$ 4,500.00
A-C-3	Fountain & Diffuser Installation (Including Electrical Appurtenances)	3	EA	\$ 10,000.00	\$ 30,000.00
A-C-4	Sodding	5,000	SF	\$ 0.75	\$ 3,750.00
TOTAL					\$ 45,000.00

**FIRST AMENDMENT TO THE FUNDING AGREEMENT BETWEEN
PINELLAS COUNTY AND TOWN OF KENNETH CITY**

THIS FIRST AMENDMENT (this "FIRST AMENDMENT") TO THE FUNDING AGREEMENT BETWEEN PINELLAS COUNTY AND THE TOWN OF KENNETH CITY FOR KENNETH CITY STORMWATER POND FOUNTAIN INSTALLATION (the "ORIGINAL AGREEMENT") is made and entered into this 16th day of August 2018, by and between PINELLAS COUNTY ("COUNTY"), a political subdivision of the State of Florida, and the TOWN OF KENNETH CITY ("TOWN"), a municipal corporation, (the COUNTY and TOWN are collectively referred to herein as "PARTIES").

WITNESSETH:

WHEREAS, PARTIES entered into the ORIGINAL AGREEMENT on June 18, 2017 to provide for matching COUNTY funding for TOWN installation of fountains and diffusers in three (3) TOWN stormwater lakes to improve water quality;

WHEREAS, due to feedback from homeowners surrounding one of these three (3) lakes, TOWN no longer wishes to perform work in this particular lake;

WHEREAS, TOWN wishes to shift the cost for this particular lake to unforeseen administrative, procurement, and legal issues and expenses TOWN is incurring for the two (2) remaining lakes;

WHEREAS, notwithstanding this cost shifting, no additional funding is required to implement this FIRST AMENDMENT;

WHEREAS, Section Three (3) of the ORIGINAL AGREEMENT provides that the ORIGINAL AGREEMENT expires on December 31, 2018;

WHEREAS, PARTIES wish to extend the term of the ORIGINAL AGREEMENT until March 31, 2019 to account for these unforeseen administrative, procurement, and legal issues and expenses.

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, PARTIES hereby mutually agree to amend the ORIGINAL AGREEMENT as follows:

1. Section One (1), Performance of Services, is amended to read in its entirety as follows as follows:

TOWN shall complete the Project in accordance with (1) the Scope of Work and (2) the Project Budget, which are attached hereto and incorporated herein as Exhibits A and B respectively, by December 31, 2018. For purposes of this Agreement, the Project shall be considered complete once all line items under the "Design" and "Construction" sections of the Project Budget have been completed and invoiced to COUNTY in accordance with Section Two (2) of this Agreement below.

TOWN shall comply with all terms and conditions of the Scope of Services and Project Budget. TOWN shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by TOWN under this

Agreement. TOWN shall orally consult with COUNTY regarding the Project on a monthly basis or at any time upon COUNTY'S request.

2. Section Two (2), Funding, is amended to read in its entirety as follows:

COUNTY agrees to provide up to \$22,500.00 for the Project on a matching reimbursement basis in accordance with the following:

After the Project is complete and no later than December 31, 2018, TOWN shall deliver a Project invoice up to \$22,500.00 ("Invoice") to COUNTY.

Together with the Invoice, TOWN shall submit a certification that (1) the Invoice is accurate, that (2) TOWN has expended all invoiced funds in furtherance of the Project, and (3) that TOWN has expended non-invoiced (matching) funds in at least the invoiced amount in furtherance of the Project ("Certification"). Together with the Invoice, TOWN shall submit a project completion report, summarizing how the cumulative amount of invoiced and non-invoiced funds have been expended for Project completion along with comprehensive evidence thereof ("Project Completion Report").

Within thirty (30) days of receiving the Invoice, COUNTY shall either: (1) provide full payment to TOWN for the Invoice; or (2) if COUNTY finds the Invoice, Certification, or Project Completion Report unacceptable for any reason, provide written notice to TOWN of any defects. If COUNTY provides a written notice of defects, TOWN shall have thirty (30) days from receipt of said notice to cure said defects and provide written evidence of same to COUNTY; if TOWN fails to cure the defects within the requisite timeframe, or if COUNTY finds the evidence of such corrections to be defective for any reason, the Agreement is subject to termination with cause in accordance with Section Four (4) of the Original Agreement and Number 6 below.

3. Section Three (3), Agreement Term, is hereby amended to read as follows:

This Agreement shall become effective upon execution by both parties and expire on March 31, 2019, unless terminated earlier as provided in Section Four (4) below.

4. Exhibit A: Scope of Work, is replaced in its entirety with Revised Exhibit A: Scope of Work, which is attached hereto.
5. Exhibit B: Project Budget, is replaced in its entirety with Revised Exhibit B: Project Budget, which is attached hereto.
6. Except as amended herein, the ORIGINAL AGREEMENT shall remain in full force and effect.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, PARTNERS herein have executed this FIRST AMENDMENT as of the day and year first written above.

TOWN OF KENNETH CITY, by and through its Town Manager:

By: Matthew Campbell
Matthew Campbell, Town Manager

PINELLAS COUNTY, by and through its County Administrator:

By: Mark S. Woodard
Mark S. Woodard, County Administrator

ATTEST:

By: GARY STRAIT

Approved as to Form:

By: Brendan Mackesey
Assistant County Attorney

Town of Kenneth City					
Stormwater Lakes Water Quality Project					
Revised Exhibit B - Project Budget					
Pay Item No.	Description	Quantity	Unit	Unit Price	Total
D	DESIGN				
A-D-1	Power Company Coordination / Public Presentation of Project / Easement Aquisition Assistance / Bid Document Prep / Bidding & CA Services	1	LS	\$ 8,500.00	\$ 8,500.00
A-D-2	Easement Legal and Sketch Acquisition	1	LS	\$ 4,800.00	\$ 4,800.00
C	CONSTRUCTION				
A-C-1	Mobilization	1	LS	\$ 3,000.00	\$ 3,000.00
A-C-2	Duke Energy New Account Setup / Construct Two (2) Drops & Pedestals	1	LS	\$ 1,225.00	\$ 1,225.00
A-C-3	Fountain & Diffuser Installation (Including Electrical Appurtenances)	2	EA	\$ 12,500.00	\$ 25,000.00
A-C-4	Sodding	3.300	SF	\$ 0.75	\$ 2,475.00
				TOTAL	\$ 45,000.00

**TOWN OF KENNETH CITY
STORMWATER LAKES WATER QUALITY PROJECT
REVISED EXHIBIT A - SCOPE OF WORK**

I. Description of Project

In an effort to improve water quality in an aesthetic manner, the Town of Kenneth City is proposing the installation of fountains and aerators within two (2) stormwater lakes. These facilities will be installed within Lake Paul & Lake Lori. Please see the attached exhibit for specific location information.

II. Scope of Services

The Scope of Services shall consist of the following:

DESIGN

1. The Town's engineering consultant shall coordinate with Duke Energy to set up accounts for the new meters and identify construction requirements. Bid documents will be prepared and the Town's engineering consultant will perform bidding and construction administration (CA) services.
2. The Town's engineering consultant shall present the proposed project to the public.
3. The Town's engineering consultant shall coordinate the acquisition of legal sketches and descriptions for easements on Lake Paul.

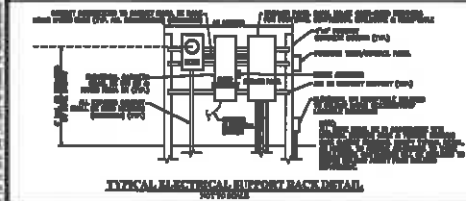
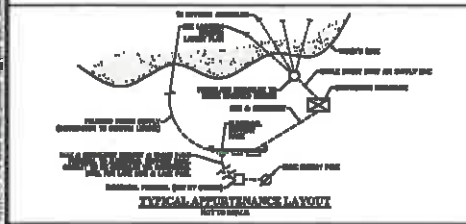
CONSTRUCTION

The Contractor will be procured in accordance with Town purchasing requirements. Once the contract is awarded, the Contractor will perform the following tasks:

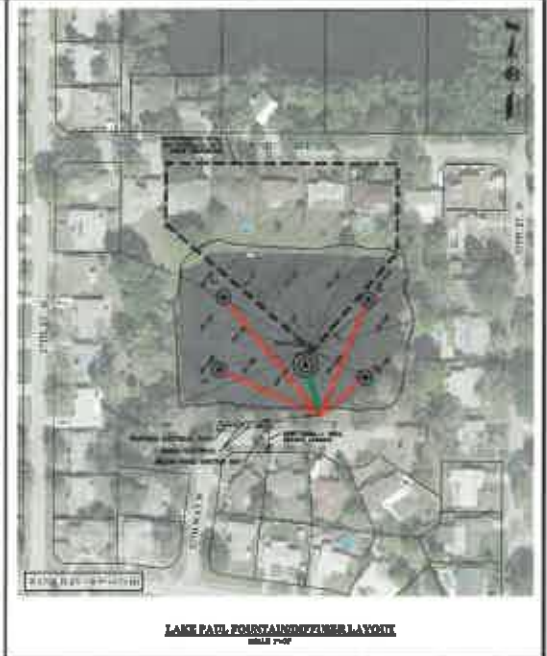
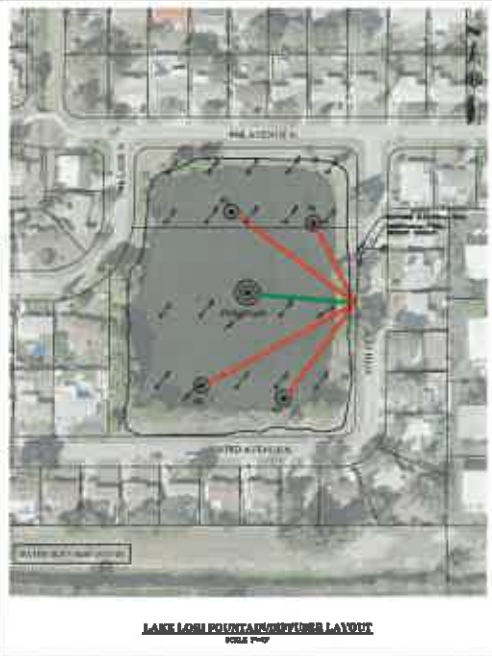
1. The Contractor will mobilize labor and equipment to the site.
2. The Contractor will oversee the installation of two (2) electric drops and pedestals by Duke Energy (one (1) at each lake). The Contractor shall construct buried electric from the pedestal to the proposed meter/disconnect location.
3. The Contractor shall construct a ½ horsepower fountain and three to four diffused aerators within each pond. The Contractor shall construct an electric support rack to house the utility meter, disconnect and other equipment. The aerator shall be housed within a composite cabinet.
4. The Contractor shall restore the construction area utilizing a sod species that matches the surrounding area.

III. Schedule

The Town of Kenneth City will provide Pinellas County with a digital version of the bidding document prior to soliciting pricing. The construction will be completed by December 31, 2018.



- LEGEND:**
- FOUNTAIN POSITION (WITH ADDRESS ASSIGNED)
 - CONTROL ASSEMBLY
 - WATER MAINS
 - POWER CHAINS
 - ELECTRICAL SUPPORT BASE
 - ELECTRICAL SUPPORT BASE
 - UTILITY TRENCH (SEE THE OTHER SHEETS)
 - EXISTING AND PROPOSED DRIVEWAYS (SEE PROPERTY OR "DRIVEWAYS")



NO.	DESCRIPTION	DATE	BY	CHECKED BY

ADVANCED
 ENGINEERING & DESIGN, INC.
 10000 AVENUE
 SUITE 100
 WOODBRIDGE, ONTARIO
 L4L 1W4
 TEL: (905) 709-1111
 FAX: (905) 709-1112
 WWW.AEDINC.COM

ADVANCED
ENGINEERING & DESIGN, INC.
TOWN OF KENNETH CITY
STORMWATER LAKES WATER QUALITY PROJECT

PROJECT PLAN

SHEET NO. **01000-2**

**AMENDMENT NO. 2 TO THE FUNDING AGREEMENT BETWEEN
PINELLAS COUNTY AND KENNETH CITY**

THIS SECOND AMENDMENT (this "SECOND AMENDMENT") TO THE FUNDING AGREEMENT BETWEEN PINELLAS COUNTY AND THE TOWN OF KENNETH CITY FOR KENNETH CITY STORMWATER POND FOUNTAIN INSTALLATION (the "ORIGINAL AGREEMENT") is made and entered into this 14 day of May 2019, by and between PINELLAS COUNTY ("COUNTY"), a political subdivision of the State of Florida, and the TOWN OF KENNETH CITY ("KENNETH CITY"), a municipal corporation, (the COUNTY and KENNETH CITY are collectively referred to herein as "PARTIES").

WITNESSETH:

WHEREAS, PARTIES entered into the ORIGINAL AGREEMENT on June 18, 2017, which expired on December 31, 2018, to provide for matching COUNTY funding for KENNETH CITY installation of fountains and diffusers in three KENNETH CITY stormwater lakes to improve water quality;

WHEREAS, PARTIES amended the ORIGINAL AGREEMENT on June 16, 2017 to extend the agreement term until March 31, 2019 and shift certain costs;

WHEREAS, due to administrative obstacles KENNETH CITY has encountered acquiring necessary easements from Duke Energy, PARTIES wish to extend the agreement term another six months until September 30, 2019; and

WHEREAS, no cost shifting or additional funding is required to implement this SECOND AMENDMENT.

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, PARTIES hereby mutually agree to amend the ORIGINAL AGREEMENT as follows:

1. Section One (1), Performance of Services, is amended to read in its entirety as follows:

Kenneth City shall complete the Project in accordance with (1) the Scope of Work and (2) the Project Budget, which are attached hereto and incorporated herein as Exhibits A and B respectively, by September 30, 2019. For purposes of this Agreement, the Project shall be considered complete once all line items under the "Design" and "Construction" sections of the Project Budget have been completed and invoiced to the County in accordance with Section Two (2) of this Agreement below.

Kenneth City shall comply with all terms and conditions of the Scope of Services and Project Budget. Kenneth City shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by Kenneth City under this Agreement. Kenneth City shall orally consult with County regarding the Project on a monthly basis or at any time upon County's request.

2. Except as amended herein, the ORIGINAL AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, PARTNERS herein have executed this FIRST AMENDMENT as of the day and year first written above.

TOWN OF KENNEH CITY, by and through its Town Manager:

By: Matthew Campbell
Matthew Campbell, Town Manager

PINELLAS COUNTY, by and through its County Administrator:

By: Barry A. Burton
Barry A. Burton, County Administrator

ATTEST:

By: Cindy M. Mator

Approved as to Form:

By: Brendan Mackesey
Assistant County Attorney