

**Clay County Agreement/Contract No. 2019/20 –
Installation of Extractor Laundry Equipment at Clay County Fire Station 11**

This Agreement for the Installation of Extractor Laundry Equipment at Clay County Fire Station 11 (“Agreement”) is made and entered into as of the ____ day of _____, 2020 (“Effective Date”) between Charles Perry Partners, Inc., a Florida Profit Corporation (“Contractor”), and Clay County, a political subdivision of the State of Florida (the “County”).

RECITALS

WHEREAS, the County issued a Request for Bids, BID No. 19/20-43 REBID (“Bid”), to solicit and engage a Florida licensed Contractor for the installation of extractor laundry equipment for the maintenance of firefighter gear at the County’s Fire Station 11 located at 7390 State Rd 21, Keystone Heights, FL 32656; and

WHEREAS, the Contractor responded to the Bid with a proposal and pricing to offer the requested services and the County selected Contractor based on Contractor’s response (“Contractor’s Response”); and

WHEREAS, the Contractor desires to provide the services to the County as set forth in the Bid, the Contractor’s Response and under the terms and conditions set forth in this Agreement; and

WHEREAS, the parties hereby acknowledge and expressly agree that the terms and conditions of the Bid as well as the Contractor’s Response apply to this Agreement and are incorporated herein by reference.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

SECTION 1. AWARD AND PROJECT

1.1 This Agreement serves as the formal and binding award of the Bid to the Contractor. The Contractor shall furnish and deliver all material and perform all the work and labor required in accordance with this Agreement, the Bid, and the Contractor’s Response related to the installation of extractor laundry equipment at Fire Station 11 (the “Project”).

1.2 The services to be provided by the Contractor for the Project are summarized as follows:

- Provide all labor and equipment for the installation of new UniMac Washer Extractor Model #UWT065D30LX.
- Complete all modifications including utilities, selective demolition, concrete,

plumbing, HVAC, and electrical work as required by the construction plans and details prepared by Dasher Hurst Architects attached to the Bid to facilitate the equipment (“Plans”).

- Obtain all permits required for the Project.
- Participate in an inspection and walkthrough and complete any items on the punch-list generated from the inspection.
- Properly remove and dispose of all trash and construction debris related to the Project.

1.3 The terms of this Agreement, the Bid, and the Contractor’s Response are intended to be read in conjunction with each other to every extent possible; however, in the event of a conflict, the documents shall control in the following priority: 1) this Agreement and any attachments hereto; 2) Contractor’s Response; and 3) the Bid. The Contractor shall complete the Project and shall perform the Work contemplated in this Agreement in strict conformity with these documents. The term “Work” means the services rendered, or supplies, materials, equipment and the like constructed, delivered or installed in relation to the Project under this Agreement.

1.4 For purposes of this Project, the County Representative shall be James Householder, Facilities Manager for Clay County Board of County Commissioners, or his designee.

SECTION 2. AGREEMENT AMOUNT

2.1. For purposes of this Agreement, the Agreement Amount is defined as the Contract Price set forth in Subsection 2.2 as adjusted by approved Change Orders.

2.2 In consideration of the premises, the County agrees to pay all associated construction costs, as identified in the Bid and the Contractor’s Response, to the Contractor for the Project in accordance with the terms of this Agreement. The total price for the completion of the Project is **\$169,725.00** (“Contract Price”). The Contract Price includes the Work to be performed by the Contractor and all other expenses associated with the Contractor’s performance of the Work, including, but not limited to, labor, materials, supplies, and other items or requirements to complete the Project.

2.3. Payments are to be made in accordance with Section 3 upon presentation of the proper Invoice and/or certificates detailing the Work completed to the County Representative based upon the lump sums specified for in the Contractor’s Price Sheet set forth in the Contractor’s Response, a copy of which is attached hereto and incorporated herein as Attachment A. The Agreement Amount to be paid to the Contractor shall be the total amount based on lump sums contained in the Contractor’s Price Sheet for the Work actually authorized and performed under this Agreement and any approved Change Orders.

2.4. Whenever any change or combination of changes in the Plans results in an increase or decrease in the original descriptions or quantities set forth in the Plans or the Bid, and the Work added or eliminated is of the same general character as that shown on the

original Plans, the Contractor shall accept payment in full at the original unit/description prices for the actual quantities of Work performed.

- 2.5 The County shall not be responsible for any reimbursement of expenses as any and all expenses incurred by the Contractor are to be included as part of the Agreement Amount.

SECTION 3. PAYMENT PROCEDURES

- 3.1. As used in this Section, the term “Act” means the Local Government Prompt Payment Act set forth in Part VII of Chapter 218, Florida Statutes; the term “Invoice” means a statement, invoice, bill, draw request or payment request submitted by the Contractor under the Agreement; the term “Manager” means the County Manager of the County; the term “Paying Agent” means the County Representative to whom Invoices must be submitted as identified in the Agreement; and the term “Submittal Date” means, with respect to an Invoice, the submittal date thereof to the Paying Agent. All payments for the Work shall be made by the County in accordance with the Act. Upon receipt of a proper Invoice, the County shall have 45 days in which to make payment. The County will make payments when due in the form of an ACH wire transfer, or County warrant from a U.S. financial institution.
- 3.2. The Contractor shall submit an Invoice to the Paying Agent no more than once per month based on the amount of the Project done or completed. All partial Invoices/estimates and payments shall be subject to correction when submitted, and/or in the subsequent estimates and payments, and the final estimate and payment. The Contractor’s Invoices shall be submitted in accordance with the schedule provided by the County to match the meeting schedule of the Board of County Commissioners.
- 3.3. The amount of the monthly payments shall be the total value of the Project done to the date of the Invoice, based on the Contract Price, less an amount retained and less payments previously made. The amount retained shall be as follows:
- (a) The County may withhold from each monthly payment due to be made to the Contractor under this Agreement an amount not to exceed 10 percent of said payment as retainage until 50 percent completion of the Work of the Project has been achieved.
 - (b) After 50 percent of the Work of the Project has been achieved, the County may withhold from each monthly payment thereafter due to be made to the Contractor under this Agreement an amount not to exceed 5 percent thereof as retainage. The term “50 percent completion” means the point at which the County has expended 50 percent of the Agreement Amount as adjusted by approved Change Orders.
 - (c) After 50 percent of the Work of the Project has been achieved, the Contractor may present to the County a payment request for up to one-half of the retainage held by the County. The County shall promptly pay such

amount to the Contractor, unless the County has grounds for withholding such payment of retainage.

- 3.4. Invoices shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested, that the Work has been properly installed or performed in full accordance with the Agreement, and that the Contractor knows of no reason why payment should not be made as requested. Each Invoice submitted must include the following information and items:
- 1) The Contractor's name, address and phone number, including payment remittance address.
 - 2) The name, address and phone number of the Contractor's employee or agent to whom notices and inquiries regarding the Invoice may be directed.
 - 3) The Invoice number and date.
 - 4) Reference to the Agreement by its title and number as designated by the County.
 - 5) The period of the Work covered by the Invoice.
 - 6) A progress report detailing the Work performed for which payment is requested in sufficient detail to permit the Paying Agent to evaluate whether the same has been properly installed or performed in full accordance with this Agreement.
 - 7) Supporting documentation necessary to satisfy auditing requirements, for cost and Work completion; however, the Contractor shall not be required to include or disclose its confidential and proprietary raw costs or pricing data.
- 3.5. An Invoice that does not conform with the above Subsections will not be considered a proper invoice as defined in the Act.
- 3.6. Promptly upon receipt of an Invoice submitted under this Section, the Paying Agent shall date stamp the same as received. Thereafter, the Paying Agent shall review the Invoice and may also review the Work as delivered, installed or performed to determine whether the quantity and quality of the Work is as represented in the Invoice and is as required by this Agreement. If the Paying Agent determines that the Invoice does not conform with the applicable requirements of the Agreement or this Section or that the Work within the scope of the Invoice has not been properly delivered, installed or performed in full accordance with the Agreement, the Paying Agent shall notify the Contractor in writing within 20 business days after the improper Invoice is received that the Invoice is improper and indicate what corrective action on the part of the Contractor is needed to make the Invoice proper. The County shall pay each proper Invoice in accordance with the applicable provisions of the Act.
- 3.7. By the submittal of an Invoice hereunder, the Contractor shall have been deemed to have warranted to the County that all Work for which payments have been previously received from the County shall be free and clear of liens, claims, security interests or other encumbrances in favor of the Contractor or any other person or entity for failure to make payment.

- 3.8. The Parties will attempt to settle any payment dispute arising under this Section through consultation and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If the dispute remains unresolved within 30 calendar days following the Submittal Date, then the Paying Agent shall schedule a meeting with the Manager between the Contractor's representative and the Paying Agent, to be held no later 45 calendar days following the Submittal Date, and shall provide written notice to the Contractor regarding the date, time and place of the meeting no less than 7 calendar days prior thereto. At the meeting, the Contractor's representative and the Paying Agent shall submit to the Manager their respective positions regarding the dispute, including any testimony and documents in support thereof. The Manager shall issue a written decision resolving the dispute within 60 calendar days following the Submittal Date, and serve copies thereof on the Contractor's representative and the Paying Agent.
- 3.9. Prior to submitting an Invoice, the Contractor shall certify that all subcontractors and suppliers having any interest or performing any of the Work in relation to the Project have received their pro rata share of previous periodic payments to the Contractor for all Work completed and materials supplied. This certification shall be in the form designated by the County. The Contractor shall within 10 days of receipt of progress payments pay all subcontractors and suppliers performing any of the Work or supplying any of the materials with respect to the Project their pro rata shares of the payment for all Work completed and materials supplied. The term "subcontractor", as used herein, shall mean a person(s) or firm(s) that enters into a contract with the Contractor for the performance of any part of the Agreement and also includes persons or firms supplying materials or equipment incorporated into the Work of the Project for which partial payment has been made by the County, and work done under equipment rental contracts.
- 3.10. Nothing in this Agreement or in any of the documents identified in Subsection 1.3 shall be construed as providing any subcontractor with any rights or remedies against the County or any of its employees, principals, officers or agents for nonpayment or otherwise.

SECTION 4. TIMELY PERFORMANCE

- 4.1. The Contractor agrees to perform all necessary Work as provided for in this Agreement, the Bid, and the Contractor's Response and to execute the Agreement within 10 calendar days after the date the Agreement is approved and executed by the Board of County Commissioners, or an alternate date as agreed to by the County Representative and the Contractor. Following execution to the Agreement, the parties shall attend a preconstruction meeting.
- 4.2. The date on which days will begin to be charged to the Project (the "Notice to Proceed Date") shall be either (1) the 10th calendar day from the date of issuance by the County Representative of the initial notice to begin the Work or, (2) the date on which the Contractor actually begins the Work, whichever date is the earlier.

- 4.3. The Contractor shall achieve Substantial Completion of the Project no later than thirty (30) calendar days from the Notice to Proceed Date (“Substantial Completion Date”). As used herein Substantial Completion shall mean the achievement of beneficial occupancy or use of the Project. Final completion of the Project shall be achieved within sixty (60) calendar days of the Notice to Proceed Date (the “Final Completion Date”). It shall be understood that this includes time for the Contractor to order and receive the equipment required for the Project.

SECTION 5. ADDITIONAL WORK AND FEES

- 5.1. Change Orders shall be used to clarify the Plans and specifications of the Agreement, to provide for major quantity differences which result in the Contractor’s work effort exceeding the Contract Price, to provide for unforeseen work, or alterations in the Plans which could not reasonably have been contemplated or foreseen in the original Plans, to provide a safe and functional facility, to settle contract claims, and to make the Project functionally operational in accordance with the intent of the Agreement. No work covered by a Change Order shall be performed before the County Representative gives written authorization. Such written authorization shall set forth the prices agreed upon and other pertinent information and shall be reduced to a written Change Order promptly. No payment shall be made on a Change Order prior to the County’s approval of the Change Order. In addition, the County shall make no payment for any unauthorized work.
- 5.2. A Change Order shall also be used when a time extension is required due to any unforeseen circumstances; provided, Change Orders shall not be used for time extensions requested by the Contractor under circumstances or conditions attributable to the Contractor. Such Change Order shall set forth the agreed amount of time for such extension.

SECTION 6. BONDS AND INSURANCE

- 6.1. To the extent required, the Contractor agrees to furnish a performance bond and a payment bond in accordance with the Bid and/or the Contractor’s Response.
- 6.2. The Contractor shall comply with all insurance requirements stated in the Bid. The Contractor shall secure and maintain in effect at all times during the term of this Agreement, and Change Orders hereof, a general liability insurance policy, automobile liability insurance policy, workers compensation/employers liability policy, and professional liability insurance policy in the minimum amounts stated in the Bid. Prior to the Project commencement, the Contractor must deliver certificates of insurance for the required insurance coverage to the County naming “Clay County, a political subdivision of the State of Florida; and The Board of County Commissioners, Clay County, Florida, its employees, agents, boards and commissions, as their interests may appear” as “Additional Insured.” The certificates of insurance shall also include a thirty-day prior written notice of cancellation, modification or nonrenewal to be provided to the County.

If any required insurance coverage is canceled, terminated or revoked, the Contractor agrees to immediately suspend its operations until replacement insurance is obtained and verified.

SECTION 7. DEFAULT

- 7.1. In case of default on the part of the Contractor, actions for all damages and expenses, including accounting, engineering and legal services, together with any and all other costs incurred in connection with such default, shall lie against the Contractor.
- 7.2. If the Contractor fails to begin the Work under this Agreement as of the Notice to Proceed Date or fails to perform the Work with sufficient workmen and equipment or with sufficient materials to assure the prompt completion of this Agreement or performs the Work unsuitably or neglects or refuses to remove materials or to perform anew such Work as may be rejected as unacceptable and unsuitable, or discontinues the prosecution of the Work, or fails to resume Work which has been discontinued within a reasonable time after notice to do so, or becomes insolvent or is declared bankrupt, or files for reorganization under the bankruptcy code, or commits any act of bankruptcy or insolvency, either voluntarily or involuntarily, or allows any final judgment to stand against it unsatisfied for a period of ten calendar days, or makes an assignment for the benefit of creditors, or for any other cause whatsoever fails to carry on the work in an acceptable manner, the County Representative will give notice in writing to the Contractor of such delay, neglect, default or opinion.
- 7.3. If the Contractor, within a period of ten calendar days after the notice described above, shall not proceed to correct the conditions of which complaint is made, the County shall, upon written certificate from the County Representative of the fact of such delay, neglect, default or opinion and the Contractor's failure to correct such conditions, have full power and authority, without violating this Agreement, to take the prosecution of the Work out of the hands of the Contractor and to declare this Agreement to be in default.

SECTION 8. TERMINATION

- 8.1. The County may terminate this Agreement or any amendment or Change Order hereto at its convenience without cause. In the event of termination, the Contractor will be compensated for acceptable work authorized and completed prior to the date of termination.
- 8.2. This Contract is to be binding upon the County and upon the Contractor, its heirs, successors, administrators, or assigns and is voidable and may be terminated by the County if the provisions of the statutes and documents incorporated herein relative thereto are not complied with.
- 8.3. Termination of this Agreement or a portion hereof under the provisions incorporated herein shall not relieve the Contractor of its responsibilities for the completed portion or concerning any just claims arising out of the Work performed.

SECTION 9. LIQUIDATED DAMAGES

- 9.1. Liquidated damages for default by the Contractor in completion of the Project will be established. A percentage of the established liquidated damage amount will be enforced in the event the Project is not fully completed by the Final Completion Date. This is further defined in Subsection 9.3 of this Agreement.
- 9.2. Time for completion of the Project is of the essence. The parties hereto mutually understand and agree that time is of the essence in the performance of this Agreement and that the County will incur damages if the Contractor's scope of the Project is not completed on time. The Contractor shall at all times carry out its duties and responsibilities as expeditiously as possible and shall begin, perform and complete its services so that (i) the Project is substantially completed by the Substantial Completion Date, and (ii) the Project is finally completed by the Final Completion Date.
- 9.3. Should the Contractor fail to complete the Project within the days agreed, it is mutually agreed to and understood by both parties that the Contractor shall pay to the County, not as a penalty but as liquidated damages, the sum of **Two Hundred Dollars (\$200.00)** per calendar day for each and every day after the Final Completion Date until Final Completion is achieved. This liquidated damages provision shall apply and remain in full force and effect in the event that the Contractor is terminated by the County for default and shall apply until Final Completion has been achieved by any completing Contractor. Regardless of whether the Agreement time is stipulated in calendar days or working days, default days shall be counted in calendar days. The County shall have the right to apply as payment on such liquidated damages any money that is due to the Contractor by the County.
- 9.4. Permitting the Contractor to continue and to finish the Project, or any part of it, after the expiration of the Agreement time allowed, including extensions of time granted to the Contractor, shall in no way act as a waiver on the part of the County of the liquidated damages due under the Agreement.

SECTION 10. RECOVERY RIGHTS AND RECORDS

- 10.1. The County reserves the right should an error be discovered in the partial or final estimates, or should proof of defective work or materials used by or on the part of the Contractor be discovered after the final payment has been made, to claim and recover from the Contractor or its surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials.
- 10.2. All records pertaining to the Project shall be retained by the Contractor for a period of five years from the date of final acceptance of the Project. Upon request, all such records shall be made available to the County or its representatives. For the purposes of this Agreement, records shall include all books of account, supporting documents and papers deemed necessary by the County to assure compliance with the provisions of this

Agreement. Any other provisions of this Agreement or any of the documents identified in Subsection 1.3 to the contrary notwithstanding, in the event litigation pertaining to this Agreement is commenced during the five-year period, the records retention period provided herein shall be extended until the litigation, including any appeal proceedings related thereto, is finally concluded.

SECTION 11. AUTHORITY TO SUSPEND WORK

The County Representative shall have the authority to suspend the Work, wholly or in part, for such period or periods as may be deemed necessary, due to unsuitable weather or other conditions which are considered unfavorable for the prosecution of the Work. Should the County be prevented or enjoined from proceeding with the Work either before or after the start of construction by reason of any litigation or other reason beyond the control of the County, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, but time for completion of the Work will be extended to such reasonable time as the County may determine will compensate for time lost by such delay with such determination to be set forth in writing.

SECTION 12. PRESERVATION OF PROPERTY

The Contractor shall preserve from damage all property along the line of the Work, or which is in the vicinity of or is in any way affected by the Work, the removal or destruction of which is not called for by the plans. This applies to public and private property and whenever such property is damaged as a result from the performance of the Work, or through the negligence of the Contractor, it shall be immediately restored to a condition similar or equal to that existing before such damage or injury was done by the Contractor, and at its own expense, or it shall make good such damage or injury in an acceptable manner.

SECTION 13. FAILURE TO RESTORE DAMAGED PROPERTY

In case of failure on the part of the Contractor to restore such property, or to make good such damage or injury, the County Representative may upon 48 hours' notice, proceed to repair, rebuild or otherwise restore such property, as may be deemed necessary, and the cost thereof will be deducted from any moneys due or which may become due to the Contractor under the Agreement. Nothing in this clause shall prevent the Contractor from receiving proper compensation for the removal, damage or replacement of any public or private property as long as such work is authorized by the County Representative, provided that such property has not been damaged as a result from the performance of the work or through fault of the Contractor, its employees or agents.

SECTION 14. AUDIT OF CONTRACTOR'S RECORDS

14.1. The County reserves the right to conduct any necessary audit of the Contractor's records pertaining to the Project. Such an audit, or audits, may be conducted at any time prior to final payment, or thereafter pursuant to Section 10. The County may also require submittal of the records from either the Contractor, or any of its subcontractors or both.

The Contractor shall make the aforementioned requirement a provision in its agreement(s) with all subcontractors. For purposes of this Agreement, records shall include all books of account, supporting documents and papers deemed necessary by the County to assure compliance with the Agreement provisions.

- 14.2. Failure of the Contractor or subcontractor to comply with these requirements may result in disqualification or suspension from quoting and bidding for future contracts or disapproval as a subcontractor at the option of the County.
- 14.3. The Contractor shall assure that each of its subcontractors will provide access to the subcontractor's records pertaining to the Project upon request by the County.

SECTION 15. TAXES

In that the County is a governmental agency exempt from sales and use taxes, the County shall pay no such taxes, any other provisions of this Agreement to the contrary notwithstanding. The County shall provide proof of its exempt status upon reasonable request.

SECTION 16. APPROPRIATED FUNDS

The Contractor acknowledges that in the budget for each fiscal year of the County during which the term of the Agreement is in effect a limited amount of funds are appropriated which are available to make payments arising under the Agreement. Any other provisions of the Agreement to the contrary notwithstanding, and pursuant to the provisions of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.

SECTION 17. PUBLIC RECORDS

- 17.1. The Contractor acknowledges the County's obligation under Art. 1, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, as from time to time amended (together, the Public Records Laws), to release public records to members of the public upon request. The Contractor acknowledges that the County is required to comply with the Public Records Laws in the handling of the materials created under the Agreement and that the Public Records Laws control over any contrary terms in the Agreement. In accordance with the requirements of Section 119.0701, Florida Statutes, the Contractor covenants to comply with the Public Records Laws, and in particular to:
 - (a) Keep and maintain public records required by the County to perform the services required under the Agreement;
 - (b) Upon request from the County's custodian of public records, provide the County 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, Florida Statutes, or as 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 Contractor does not transfer the records to the County; and,

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the services. If the Contractor transfers all public records to the County 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 County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

17.2. The Contractor's failure to comply with the requirements of this Section shall be deemed a material breach of this Agreement, for which the County may terminate the Agreement immediately upon written notice to the Contractor.

17.3. The Contractor acknowledges the provisions of Section 119.0701(3)(a), Florida Statutes, which, as applicable to the County and the Contractor, require as follows:

(a) A request to inspect or copy public records relating to the Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request, and the Contractor must provide the records to the County or allow the records to be inspected or copied within a reasonable time.

(b) If the Contractor does not comply with the County's request for records, the County shall enforce the contract provisions in accordance with the Agreement.

(c) If the Contractor fails to provide the public records to the County within a reasonable time, the Contractor may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

SECTION 18. SCRUTINIZED COMPANIES CERTIFICATION

In compliance with Section 287.135(5), Florida Statutes, the undersigned hereby certifies that the Contractor is not participating in a boycott of Israel as defined in Section 287.135(1), Florida Statutes; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in Section 287.135(2), Florida Statutes; and does not have business operations in Cuba or Syria as defined in Section 287.135(1), Florida Statutes. In accordance with Section 287.135(3), Florida Statutes,

the County shall have the option of terminating this Agreement if the Contractor is found to have submitted a false certification as provided under Section 287.135(5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as defined in Section 287.135(1), Florida Statutes.

SECTION 19. INDEMNIFICATION; SOVEREIGN IMMUNITY

- 19.1. The Contractor agrees to make payment of all proper charges for labor and materials required in the aforementioned Work of the Project and to defend, indemnify, and save harmless the County, all of its officers, agents, and servants, against all suits and costs and all damages to which the County, or any of its officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of the Work of the Project, or through the negligence of the Contractor, or through any improper or defective machinery, implements, or through any act or omission on the part of the Contractor, its principals, officers, agents, employees, subcontractors, suppliers or servants.
- 19.2. The Contractor shall fully defend, protect, indemnify and hold harmless the County and all of its principals, employees, officers, agents, servants and contractors (collectively, the Indemnitees), from and against any and all 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. The provisions of this Subsection shall survive any termination of this Agreement.
- 19.3. With respect to any indemnification by the County provided under this Agreement, any such indemnification shall be subject to and within the limitations set forth in Section 768.28, Florida Statutes, and to any other limitations, restrictions and prohibitions that may be provided by law, and shall not be deemed to operate as a waiver of the County's sovereign immunity.
- 19.4. No officer, employee or agent of the County acting within the scope of his/her employment or function shall be held personally liable in tort or named as a defendant in any action for any damage suffered as a result of any act, event, or failure to act. The County shall not be liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of his/her employment. This exclusion includes actions committed in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

SECTION 20. NOTICE

All notices given under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) two days after having been delivered to Federal Express, UPS, Airborne or another recognized overnight courier or delivery service, or (c) five days after

having been deposited into the United States mail, by registered or certified mail, return receipt requested, postage prepaid, to the respective parties at their respective addresses set forth below:

If to Contractor:

Hunter Pruitt
Project Manager
Charles Perry Partners, Inc.
12740 Gran Bay Pkwy. Ste 2310
Jacksonville, FL 32258

If to County:

James Householder
Facilities Manager
Clay County Board of County Commissioners
P.O. Box 1366
477 Houston Street
Green Cove Springs, FL 32043

SECTION 21. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor to the County in provision of the Work under this Agreement and is not an employee, agent, joint-venture, or partner of the County.

SECTION 22. ACCEPTANCE OF FINAL PAYMENT

22.1. It is agreed and understood that the acceptance of the final payment by the Contractor shall be considered as a release in full of all claims against the County or any of its officers, principals, employees, members or agents arising out of, or by reason of, Work done or material furnished under this Agreement. The Contractor will then be released from further obligation except as set forth in its bonds, and except as provided in Sections 10 and 23.

22.2. The County shall not be obligated to remit final payment under this Contract until the following items have been submitted to and approved by the County in proper form and substance:

- (a) As-Built Plans;
- (b) Releases of Liens or equivalent proof of payments to subcontractors and suppliers;
- (b) Completed punch-list generated from final inspection;
- (c) Contractor's Warranty and any warranties from third parties; and
- (d) Certificate of Final Payment.

SECTION 23. GUARANTY AND REPAIR FOR PERIOD

23.1. The Contractor binds itself to use such materials and to so construct the work and improvements of the Project that same will be and remain in good repair and condition for a period of two years after the date of completion and acceptance of all improvements by the Clay County Board of County Commissioners, and agrees that it will repair or reconstruct said improvements at its sole expense necessitated within that time by any fault of materials, specifications, methods or processes employed in

the construction thereof, and the Contractor further agrees and binds itself that said improvements for such term shall be and remain in good serviceable condition, free from any defects that will impair its usefulness and should same, at any time within said period, in the judgment of the Board of County Commissioners, whose judgment shall be final and conclusive, become defective and be not in a good serviceable condition, free from any defects that will impair its usefulness by reason of any defective materials, workmanship, specifications, methods, or processes, then the Board of County Commissioners shall cause to be served upon the Contractor a notice in writing to repair such improvements or portions thereof, or to reconstruct the same and put same in satisfactory and good condition, and the Contractor shall promptly comply therewith at its sole expense.

- 23.2. Any warranty provided by the Contractor or for which the Contractor is responsible is limited only by such terms and conditions as may be expressly stated in the warranty document and the Agreement.

SECTION 24. WASTE MATERIAL DISPOSAL

The Contractor shall make all arrangements necessary to accomplish off-site disposal of all debris or waste generated by the Work of the Project, all at no additional cost to the County.

SECTION 25. AUTHORITY

Each person signing on behalf of the parties to the Agreement represents and warrants that he/she has full authority to execute the Agreement on behalf of such party and that the Agreement will constitute a legal and binding obligation of such party.

SECTION 26. CHOICE OF LAW AND VENUE

The County and Contractor both expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled exclusively in accordance with the laws of the State of Florida, that jurisdiction shall be limited to the courts of the State of Florida, and that venue shall lie exclusively in Clay County, Florida.

SECTION 27. ATTORNEYS' FEES

In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, obligations or liabilities of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees and costs against the other party, including fees and costs incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal.

SECTION 28. SEVERABILITY

If any provisions of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

SECTION 29. ASSIGNABILITY

The Contractor shall not assign any of its rights or duties under this Agreement to any other party without the prior written consent of the County, which consent may be withheld by the County for any or no reason. Any such assignment attempted by the Contractor without such prior written consent shall be null and void. If the Contractor attempts to assign any such rights or duties without securing such prior written consent, this Agreement may be declared terminated by the County.

SECTION 30. SUBCONTRACTORS

- 30.1. Subcontractors may be utilized in connection with this Agreement only with PRIOR WRITTEN CONSENT from the County, and only for reasonable cause, as judged by the County. Any subcontractor utilized by Contractor, shall be supervised and compensated by Contractor.
- 30.2. Nothing in the Agreement or any of the documents identified in Subsection 1.3 shall be construed as providing any subcontractor with any rights or remedies against the County or any of its employees, principals, officers, or agents for nonpayment or otherwise.

SECTION 31. NO THIRD-PARTY BENEFICIARIES

Any other provisions of this Agreement to the contrary notwithstanding, no third-party beneficiaries are intended or contemplated under this Agreement, and no third-party shall be deemed to have rights or remedies arising under this Agreement or such documents against either party to this Agreement.

SECTION 32. CONFLICT OF INTEREST

Throughout the term of this Agreement, the Contractor must not accept nor perform any other employment, assignments of contracts nor obligations that would conflict with the Contractor's duties and obligations provided under this Agreement.

SECTION 33. AMENDMENT OR MODIFICATION OF AGREEMENT

The Agreement may only be modified or amended upon mutual written agreement of the County and the Contractor. No oral agreements or representation shall be valid or binding upon either party. No alteration or modification of the Agreement terms shall be valid or binding against the County. The Contractor may not unilaterally modify the terms of the Agreement by affixing

additional terms by incorporating such terms onto the Contractor's documents forwarded by the Contractor to the County for payment.

SECTION 34. FURTHER ASSURANCES

Each of the parties shall cooperate with one another, shall do and perform such actions and things, and shall execute and deliver such agreements, documents and instruments, as may be reasonable and necessary to effectuate the purposes and intents of this Agreement.

SECTION 35. WAIVER

No waiver by the County of any breach of any provision of this Agreement by the Contractor shall constitute a waiver of any other breach of either the same provision or of any other provision by the Contractor. The failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof or any other provisions.

SECTION 36. HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not be deemed to expand, limit or change any or all the provisions hereof.

SECTION 37. COUNTERPARTS

The Agreement may be executed in one or more counterparts and by the separate parties in separate counterparts, each of which shall be deemed to constitute an original and all of which shall be deemed to constitute the one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CHARLES PERRY PARTNERS, INC.

By: _____

Print Name: _____

Print Title: _____

Date: _____

**CLAY COUNTY, a political subdivision of the
State of Florida**

By: _____
Gayward F. Hendry
Its Chairman

Date: _____

ATTEST:

Howard Wanamaker
County Manager and Clerk of the
Board of County Commissioners

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ATTACHMENT A

(REBID) Price Sheet: Bid #19/20-43, Installation of Extractor Laundry Equipment at Fire Station 11		
Div.	Description	Company Name Cost
1	General Conditions / Requirements	\$ 30,000.00
3	Concrete	\$ 12,840.00
6	Wood and Plastic	\$
7	Thermal & Moisture Protection	\$
8	Doors & Windows	\$
9	Finishes	\$ 2,250.00
10	Specialties	\$
11	Equipment (Installation only)	\$ 3,545.00
22	Plumbing	\$ 24,500.00
23	Mechanical	\$
26	Electrical	\$ 19,890.00
31	Earthwork	\$ 76,700.00
32	Exterior Improvements	\$
33	Utilities	\$
TOTAL LUMP SUM PRICE		\$ 169,725.00
TOTAL PRICE IN WRITTEN WORDS		
One Hundred Sixty Nine Thousand Seven Hundred Twenty Five Dollars and 00/100.		
Proposals require a five (5%) percent bid bond (based on total price above) and may not be withdrawn after the scheduled opening time for a period of thirty (30) days		
The County reserves the right to request a more defined schedule of values from contractors.		