

October 1st, 2021

Mr. Russ Blackburn
City Manager
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd
Port St. Lucie, FL 34984

RE: IMPACT & MOBILITY FEE MEDIATION WITH ST. LUCIE COUNTY

NUE Urban Concepts (NUC) is pleased to provide a scope of service for assistance with ongoing mediation between the City and St. Lucie County related to Impact Fees and Mobility Fees. Absent a fully executed form of contract, once signed, this form of Agreement for planning services (“the Agreement”) shall, for all purposes, constitute a binding contract upon the City of Port St. Lucie (CLIENT) and NUE Urban Concepts (NUC). In addition, once signed this Agreement shall serve as the Notice to Proceed with the work identified herein. NUE Urban Concepts has prepared the scope of service, CLIENT’s responsibilities, schedule, compensation, and contract conditions.

I. SCOPE OF SERVICES

- A. Preparation for Response to County.** NUE Urban Concepts will assist the City with preparing responses to the County related to the City’s mobility fee and the County’s road impact fee. NUE Urban will conduct needed technical analysis in response to County correspondence related to the County’s road impact fee and the City’s mobility plan and mobility fee.
- B. Review of County Road Impact Fee.** NUE Urban Concepts will review and provide written responses to the County’s road impact fee technical report. NUE Urban Concepts will be prepared to address and discuss issues identified in the report. NUE Urban Concepts will provide a written summary of review findings.
- C. Travel Demand Modeling.** NUE Urban Concepts will conduct travel demand modeling to evaluate the distribution of City traffic on the road network within the City, Ft. Pierce, and unincorporated County. The analysis will look at varying benefit district alternatives for the City and the County.

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- D. Agreement with the County.** NUE Urban Concepts will assist the City with review and response to agreement terms provided by the County in response to the City. NUE Urban will assist the City in developing agreement language for review by the County. NUE Urban will assist with review of interlocal agreements.
- E. Meetings and Presentations.** NUE Urban Concepts will attend in person or virtual meetings at the request of the City. NUE Urban will also be available for conference calls as needed. In addition, NUE Urban will prepare presentations for meetings and outreach efforts at the requested of the City

II. CLIENT'S RESPONSIBILITIES

- A.** Provide NUC with any information, agreements, and/or proposals between the City and the County.
- B.** The CLIENT shall provide any correspondence received from the County related to the 164 mediation.
- C.** The CLIENT shall provide the City's Multimodal Plan and Comprehensive Plan.
- D.** The CLIENT shall provide the documentation provided by the City's Impact fee Consultant on the review of Impact Fee collections.

III. SCHEDULE

Upon receipt of a fully executed copy of this Agreement, NUC shall perform its services and discharge the obligations imposed upon us in a prompt and timely manner and as expeditiously as it is consistent with professional skill and care, and the orderly progress of work.

IV. DURATION OF CONTRACT

The contract will conclude upon utilization of the scope contract amounts of a settlement agreement is entered into between the City and the County.

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V. COMPENSATION

The total compensation for the Scope of Service is not to exceed \$68,250 based on an hourly rate of \$175. The following is an estimate of hours per task and the projected cost per task:

ID	TASK	HOURS	COST
A	Preparation for Response to County	50	\$8,750
B	Review of County Road Impact Fee	55	\$9,625
C	Travel Demand Modeling	110	\$19,250
D	Agreement with the County	50	\$8,750
E	Meetings and Presentations	125	\$21,875
Total		390	\$68,250

NUC shall submit an invoice to the CLIENT on or about the first of each month. The invoice will include information on the task performed and the hours worked. Invoices shall be payable within 15 days of receipt of the invoice. NUC reserves the right to suspend all services on the CLIENT'S project if an invoice remains unpaid 15 days after the date of the invoice. If suspended, work will not resume until all outstanding invoices are paid in full. Accounts unpaid 30 days after the invoice date shall be subject to a monthly charge of 2% of the unpaid balance at the sole election of NUC. In the event, any portion of a CLIENT account balance remains unpaid 30 days after the date of invoice, the CLIENT shall pay collection costs, expert witness fees, and other associated fees, including reasonable attorney's fees.

If services under this Agreement continue for a period of more than twelve (12) months from the date of this Agreement, the fees contained in the Fee Schedule shall be subject to re-negotiation at the sole discretion of NUC. In the event of unsuccessful negotiations following the said 12-month period of service, NUC shall have the sole and exclusive right of termination of the Agreement upon written notice to CLIENT. Any change in such fees shall apply to the unfinished services as of the effective date of such charge.

In the event the referenced project or services of NUC called for under this Agreement is/are suspended, cancelled or abandoned by the CLIENT, NUC shall be given five (5) days prior written notice of such action and shall be compensated for the professional services provided up to the date of suspension, cancellation or abandonment.

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VI. RETAINER

The CLIENT agrees to pay NUC a deposit of \$0 **dollars**.

VII. ADDITIONAL SERVICES

None are envisioned at this time.

VIII. INDEMNIFICATION

The CLIENT shall indemnify and hold harmless NUC and all its employees, officers, and directors and other personnel and NUC's sub-consultants from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs associated with such claims) resulting from the performance of services, provided that any such claim, damage, loss or expense is caused in whole or in part by the negligent act, omission, and/or strict liability of the CLIENT, anyone directly or indirectly employed by the CLIENT (Except NUC), or anyone for whose acts any of them may be liable.

IX. RISK ALLOCATION

In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and NUC, the risks have been allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the total liability for any claim of any nature whatsoever arising out or related to the performance of services under this Agreement, as to NUC and their employees, offices, and directors shall be limited, in the aggregate amount of any/all such claim(s) to the total fees for professional services paid by the CLIENT pursuant to the Agreement.

X. MEDIATION

In the event of a dispute regarding any of the Parties' obligations hereunder, the Parties shall, no less than 90 days prior to the initiation of litigation relating to any such dispute, engage in pre-suit mediation. NUC may choose to file suit without pre-suit mediation in disputes pertaining to non-payment where there is no timely, written notice from the CLIENT as to a dispute relating to unpaid invoices.

Unless the parties mutually agree otherwise in writing, the said pre-suit mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration

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Association currently in effect. Request for mediation shall be files in writing with the other party to the Contract.

The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

XI. MISCELLANEOUS PROVISIONS

The Parties expressly waive their rights to claim consequential damages of any kind, nature or species which relate to the performance of obligations by either Party to this Agreement, as well as their employees, officers, and directors.

XII. REUSE OF DOCUMENTS

All documents prepared or furnished by NUC (and NUC's independent professional sub-consultants) pursuant to this Agreement are instruments of service in respect of the project and NUC shall retain an ownership and property interest therein. The CLIENT may make and retain copies of information and reference of the documents prepared by NUC.

Any adaptation or modification of documents prepared by NUC for the specific purpose outlined in this scope will be at the CLIENT'S sole risk and without any liability or legal exposure to NUC. The CLIENT shall indemnify and hold harmless NUC and NUC independent professional associates and sub-consultants from all claims, damages, losses, and expenses including attorney's fees arising out of, or resulting there from, adaptation or modification of documents prepared by NUC.

XIII. INSURANCE

NUC carries General Liability Insurance for Errors and Omissions at \$1,000,000 and Commercial Liability Insurance at \$1,000,000. Limits shall not exceed the lump sum contract amount. Additional insurance may require a scope addendum.

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XIV. APPLICABLE LAWS

Unless otherwise specified, the laws of the State of Florida shall govern this agreement. In the unlikely event of litigation regarding the Parties' obligations hereunder, the Parties expressly agree venue for such litigation shall be conducted in St. Lucie County. This proposal represents the entire understanding between us with respect to the project and may only be modified in writing, signed by both parties. If you have any questions regarding our fee proposal, please do not hesitate to contact us so we can clarify or revise our understanding of the project scope. Thank you again for allowing NUC the opportunity to prepare this proposal for you. I look forward to working with City Staff. Please feel free to contact me with any questions or comments that you may have.

Sincerely,

Jonathan B. Paul

Jonathan B. Paul

Notice: The signature bellow authorizes the work herein described to proceed and does so on behalf of the Signatory of the land or property upon which the work is to be performed, and warrants that he/she has authority to sign Agreement on behalf of the Signatory and on behalf of the Owner of the land. The signature below further authorizes NUC to serve notice to Owner of the land under this Agreement in accordance with Section 713.06, Florida Statutes. Signature page is provided on page 7 of this scope.

Jonathan B Paul

09/01/2021

Jonathan B. Paul, AICP
Principal
NUE Urban Concepts

Date

Signature:

Client Name (Printed):

Date

Title:

Entity: