

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF
OCOOE, FLORIDA AND ALCALDE A.ND FAY, LTD.**

The following is an agreement between the City of Ocoee, Florida, hereinafter referred to as "CITY" and the firm of Alcalde & Fay, Ltd., a Virginia corporation, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR has duly qualified experts in the field of public works, transportation infrastructure, water resources, housing and Federal appropriation and grant programs; and

WHEREAS, in the judgment of the Ocoee City Council, it is necessary and desirable to employ the services of the CONTRACTOR to assist the CITY with public works, transportation infrastructure, water resources, housing and Federal appropriation and grant programs administered by the Federal government.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

PART I - SPECIFIC PROVISIONS

- A. **SERVICES TO BE PROVIDED:** CONTRACTOR will consult and advise, as requested, on public works, transportation infrastructure, water resources, housing and Federal appropriation and grant programs, including but not limited to:
1. Developing strategies to obtain and maximize funding for public works, transportation infrastructure, water resources and housing programs.
 2. Coordinating funding, legislation and policy related activities with the United States Congress and Federal agencies;
 3. Securing authorizations and funding from the United States Congress and Federal agencies to implement the CITY'S projects;
 4. Maintaining direct and frequent contact with key United States Senators and Representatives;
 5. Advocating CITY interests during the United States legislative and regulatory process;
 6. Providing the CITY with a written report of activities and attending CITY meetings upon the CITY'S written request.
- B. **PAYMENT:** CONTRACTOR'S compensation for the services provided hereunder shall be \$5,000.00 per month. CONTRACTOR shall submit the monthly \$5,000.00 fee invoice at the first of each month, beginning on January 1, 2009. The CITY shall reimburse CONTRACTOR for reasonable expenses incurred in connection with the CONTRACTOR'S work at actual cost. Expenses that are to be reimbursed include, but are not limited to photocopying, postage, telephone, delivery, and telecopy charges. Expenses will be reimbursed to CONTRACTOR on a monthly basis. All travel expenses will be incurred only following written approval by CITY.

- C. **KEY PERSONNEL:** CONTRACTOR has represented to CITY that CITY will have L.A. 'Skip' Bafalis, Jim Davenport and Maurice Kurland principals of CONTRACTOR'S services, in the performance of CONTRACTOR'S duties hereunder, and has relied on that representation as an inducement to entering into this Agreement.

PART II. GENERAL PROVISIONS

- A. **ASSIGNMENT AND DELEGATION;** Except as above, neither party hereto shall assign or delegate any interest in or duty under this Agreement without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.

- B. **STATUS OF CONTRACTOR:** The parties intend that CONTRACTOR, in performing the services hereinafter specified, shall act as an independent contractor and shall have control of the work and the manner in which it is performed, CONTRACTOR is not to be considered an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides its employees.

- C. **METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS:** All notices, bill, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

CITY: Robert Frank
City Manager
150 North Lakeshore Drive
Ocoee, FL 34761
(407) 656-6885

CONTRACTOR: ALCALDE & FAY, LTD.
2111 Wilson Boulevard, 8th Floor
Arlington, VA 22201
(703) 841-0626

- D. **NON-DISCRIMINATION:** CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, age, marital status, medical condition, or physical or mental disability.
- E. **TERM OF AGREEMENT:** This Agreement shall become effective January 1, 2010 and shall terminate upon 30 day's written notice by either party with or without cause.

- F. **JURISDICTION:** This Agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the State of Florida. In addition, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Florida shall be applicable and shall govern to the exclusion of the law of any other forum
- G. **MEDIATION:** All controversies, claims, and disputes between the parties arising out of or related to this Agreement or the interpretation thereof, will first be submitted to mediation by a mediator certified by the Supreme Court of Florida, which mediator shall be selected and retained by the CITY. The cost of the mediator's fee shall be borne equally by the parties. The mediation process shall be invoked by written notice from either party. The CITY shall retain the mediator and schedule mediation within thirty (30) days of sending or receiving the written notice, or on a date as agreed by the parties. Mediation shall be a condition precedent to filing a lawsuit by either party.
- H. **ATTORNEY'S FEES; COSTS; VENUE:** In the event that any party hereto shall bring an action or proceeding for an alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover, as part of such action or proceeding, reasonable attorney's fees, paralegal fees, and court costs at both trial and appellate levels. For the purpose of any suit, action or proceeding arising out of or relating to this Agreement, the parties hereby consent and agree to the jurisdiction and venue of the Circuit Court of Orange County, Virginia.
- I. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral or written agreements. No, waiver, modifications, additions or addendum to this Agreement shall be valid unless in writing and signed by both the CONTRACTOR and CITY.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this 5th day of January, 2010.

ATTEST:

Beth Eikenberry
City Clerk, City of Ocoee

CITY OF OCOEE

By S. St. Laurent

WITNESSES:

[Signature]
[Signature]

ALCALDE AND FAY, LTD.

By L. A. Sean Poplin

FOR USE AND RELIANCE ONLY
BY THE CITY OF OCOEE
APPROVED AS TO FORM AND LEGALITY
this 5 day of January, 2010.

By: [Signature]
Foley & Harner LLP
City Attorney