



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

CONTRACT OVERSIGHT REPORT CA-2019-0074

DATE ISSUED: February 11, 2020



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CITY OF PAHOKEE - REVIEW OF TECHNOMARINE CONSTRUCTION, INC. CONTRACTS

SUMMARY

WHAT WE DID

The Palm Beach County Office of Inspector General (OIG) received a complaint alleging that "Pahokee City Manager Chandler Williamson authorized City staff to issue a \$150,000 City check to Technomarine Construction, Inc. for work at the Pahokee Marina that Technomarine had not yet completed. When Technomarine went bankrupt, Pahokee was left with the monetary loss." The City of Pahokee (City) paid Technomarine Construction, Inc. (Technomarine) for work related to the City's Marina Improvement Project (Project), which was financed with state grant funds the City received from the Florida Department of Economic Opportunity (FDEO).

Based upon our analysis of the complaint and documents submitted to our office, we initiated a review of the complainant's allegation. During our review, we identified additional issues.



WHAT WE FOUND

Finding (1) The Allegation is substantiated: Pahokee City Manager Chandler Williamson (City Manager Williamson) improperly authorized the payment of \$150,000 to Technomarine in violation of the FDEO Grant Agreement (FDEO Agreement). The FDEO Agreement required Pahokee to pay subcontractors on a cost reimbursement basis unless the Bureau of Auditing within the Florida Department of Financial Services, Division of Accounting and Auditing approved advanced payments and required the City to follow its own procurement policies when expending the grant funds. The City violated the grant agreement because 1) the City did not request permission to make advanced payments to Technomarine, 2) the City paid Technomarine even though the City was on notice that the work outlined in Technomarine's pay application for \$150,000 had not been completed, 3) the payment to Technomarine was not supported by the documentation submitted to the City with Technomarine's payment application (Pay App), and 4) the City used grant funds to pay for services that were not competitively bid, as required by the City's procurement code.

Therefore, **\$150,000** is considered questioned costs.¹

We referred this matter to the Inspector General of the FDEO to determine if FDEO would seek to recoup from the City grant funds erroneously advanced to Technomarine in violation of the FDEO Grant Agreement.

Finding (2): The City failed to comply with section 255.05, Florida Statutes, by not requiring Technomarine to secure a payment and performance surety bond before beginning work and by paying Technomarine \$150,000 before receiving a certified copy of the recorded bond.

Finding (3): The City violated Pahokee, FL Code of Ordinances, Sec. 2-272 (4)(a) and the FDEO Grant Agreement by not issuing a competitive solicitation for the services outlined in the \$150,000 Design-Build contract and in the \$1.2 million Addendum No. 1. Although the City issued a solicitation, the contracts between the City and Technomarine differed from the solicitation requirements with respect to the terms and conditions, offer and acceptance and consideration. The City did not approve an award for any formal solicitation related to the Project.

Finding (4): The City Manager violated the City's ordinances² by executing a \$1.2 million Addendum No. 1 with Technomarine and allowing Technomarine to commence performing

work outlined in such addendum, which had not been approved by the City Commission or the City Attorney.

Issue (1): Technomarine submitted a false Pay App for \$150,000 to the City certifying that it had completed all the work specified in the Pay App when by its own former President's admission, it had only completed work valued at \$25,000.

Additionally, we found sufficient information to warrant referral of Issue (1) to the State of Florida, Department of Legal Affairs, for a review of whether Technomarine's false certification of Pay App #1 in order to secure the release of funds under the FDEO Grant constitutes a false claim under section 68.082, Florida Statutes.

Our review included analyzing all the contracts between Technomarine and the City, the FDEO Agreement, and related documents; the Florida legislature's June 2, 2017 budget allocation to Pahokee; the City's Commission meeting agendas, minutes, and videos; and interviews of individuals who were directly involved in the contracting process including former and current City staff, AE Engineering, Inc. (City Engineer), a contractor that bid but was not awarded the contract for the Project, and Technomarine representatives.

¹ Questioned costs can include costs or financial obligations incurred pursuant to: a potential violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such cost or financial obligation is not supported by adequate

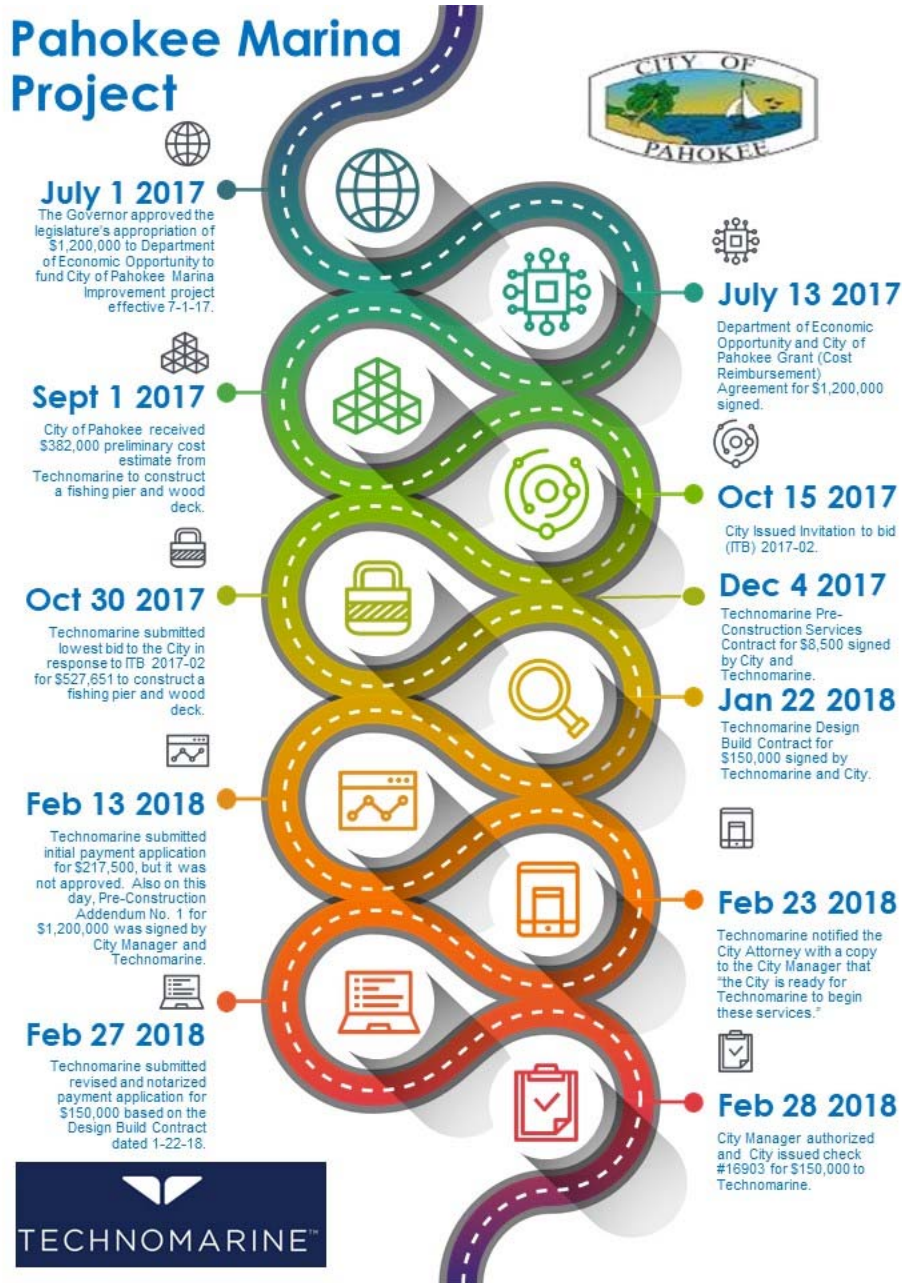
documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such, not all questioned costs are indicative of potential fraud or waste.

² Section 2-83. – Duties. (b) and Section 2-272. – Purchase Orders (3) Purchase Limitations.

WHAT WE RECOMMEND

This report contains four (4) findings, one issue and (10) recommendations. Implementation of the recommendations will assist the City in strengthening internal controls and enhance compliance with the City’s agreements and applicable laws and ordinances.

TIMELINE



BACKGROUND**FDEO Grant Agreement**

The Florida Legislature's 2017-2018 General Appropriations Act, line 224M, appropriated \$1,200,000 for City of Pahokee Marina Improvement. The Local Funding Initiative Request-Fiscal Year 2017-2018 stated that the funds were requested for repairs to the floating dock system, to improve access to parking and boat docking, to replace amenities, and to repair original fuel tanks. House Bill 3479 appropriated the nonrecurring sum of \$1,200,000 from the General Revenue Fund to the FDEO to fund the City's Marina Improvement.

FDEO entered into FDEO Agreement # HL081 (FDEO Agreement) with the City, which began July 13, 2017 and originally ended June 30, 2018, for the expenditure of these funds. The FDEO Agreement specified that grant funds were designed to assist in creating a state-of-the-art marina facility on the existing grounds of the Pahokee Marina and campground site. Although the FDEO Agreement was a cost reimbursement agreement, City Manager Williamson requested 90% of the allocated grant funds in the amount of \$1,145,000 be provided to the City in advance to secure planning, bid development, engineering and construction cost. The Department of Financial Services approved FDEO to advance \$1,145,000 in grant funds to the City prior to any work being completed.

The FDEO Agreement also specified that all payments the City made to contractors would be made on a cost reimbursement basis. To be eligible for reimbursement, all costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures. The Reference Guide required that any advance payments to contractors be pre-approved by the Bureau of Auditing. Neither the City nor Technomarine submitted such an advance payment request for consideration and approval.

Technomarine Preliminary Estimate

As a part of our review, we interviewed Mr. Jat Talton, who was the President of Technomarine during the Project period. Mr. Talton stated that prior to the City issuing a bid for the Marina Improvement Project, Technomarine provided City Manager Williamson with multiple quotes for the restaurant, deck, marina renovation and fishing pier. We received a copy of a memo from Mr. Talton to Mr. Williamson dated September 1, 2017, that included an estimate of \$300,000 for construction of the fishing pier and \$82,000 for construction of the wood deck.

City Issued Invitation to Bid for the Marina Fishing Pier and Wood Deck



On October 15, 2017, the City issued Invitation to Bid (ITB) No. 2017-02, for the construction of a fishing pier and wood deck at the Pahokee Marina. This bid was the only formal solicitation that was issued by the City for the Marina Project. Two bids were received; Technomarine's bid of \$527,651 was the lower bid. Technomarine offered to perform the services and bid as follows:

Fishing Pier-North Side	
1A. Engineering (signed and sealed plans)	\$49,920.00
2A. Geotechnical Investigations	\$49,920.00
3A. Construction Surveying	\$49,920.00
4A. Mobilization/Demobilization	\$49,920.00
5A. Performance and Payment Bond	\$49,920.00
6A. Insurance and Indemnification	\$49,920.00
7A. Furnish and Install Fixed Pier Dock System	\$49,920.00
8A. Furnish and Install Anchor Piles	\$49,920.00
Wood Deck-South Side	
1B. Engineering (signed and sealed plans)	\$25,658.20
2B. Mobilization / Demobilization	\$25,658.20
3B. Performance and Payment Bond	\$25,658.20
4B. Insurance and indemnification	\$25,658.20
<u>5B. Furnish and Install Wood</u>	<u>\$25,658.20</u>
Total	\$527,651.00

AE Engineering, Inc. sent a letter to City Manager Williamson dated November 2, 2017 stating:

We have thoroughly evaluated the bid by the apparent low bidder, Technomarine Construction, Inc. and have determined them to be responsive and responsible, and that the contract price is considered fair and reasonable. We hereby recommend the City to award the construction contract to Technomarine Construction, Inc.

AE Engineering, Inc. did not have a contract with the City for engineering services when the letter was issued. When interviewed, Mr. Roderick Myrick, the President of AE Engineering, stated that he provided this responsibility review “pro bono” to the City. The City did enter into a contract with AE Engineering, Inc. on December 12, 2017 to provide engineering services on an as-requested-basis.

In an interview with City Manager Williamson, he stated that after the State awarded the grant to the City, he and Mr. Myrick developed the bid. City Manager Williamson said he considered AE Engineering to be the “expert to a large degree.”

City Manager Williamson never submitted Technomarine’s bid for \$527,651 to the City Commission for review and consideration, and the City and Technomarine never entered into an agreement incorporating the ITB or Technomarine’s bid for \$527,651.

Technomarine Contracts



Pre-construction Services Contract for \$8,500

On December 12, 2017, City Manager Williamson requested the City Commission’s approval of a Preconstruction Services contract with Technomarine for \$8,500. The City Commission approved the Technomarine Preconstruction Services contract signed on December 4, 2017 in Resolution 2017-38. The City Finance Director advised our office that although the Commission approved the contract, the City did not pay Technomarine for any services under the Preconstruction Services contract.

Design Build Services Contract for \$150,000

On January 23, 2018, City Manager Williamson sought and received the City Commission’s approval of Resolution 2018-05 for a Design Build Services contract in the amount of \$150,000 with Technomarine dated January 22, 2018.

The Design Build Services contract between the City and Technomarine included the construction of a new fishing pier northeast of the marina and a timber deck adjacent to the existing restaurant immediately south of the marina. It included seven tasks in total, none of which were competitively solicited by the City. The Design Build Services Contract did not reflect the terms in the City’s ITB or Technomarine’s bid.

\$1.2 Million Contract Addendum No. 1 (Pre-Construction Services) Signed without Commission Approval

On February 13, 2018, without the approval of the City Commission or the City Attorney, City Manager Williamson executed Addendum No. 1 to the December 4, 2017, \$8,500 Preconstruction Services contract. This addendum totaled \$1,200,000 (the amount of the grant funding) for the following services:

1. Permitting/Administrative Oversight	\$135,000.00
2. Lighting/Camera Security System	\$78,500.00
3. Fishing Pier Construction	\$300,000.00
4. Paving and Parking Lot Construction	\$179,000.00
5. Petroleum Pump Upgrades/Systems	\$85,000.00
6. Building Upgrades/Restrooms	\$91,500.00
7. Pavilion Construction	\$65,000.00
8. Pre-fabricated Restrooms	\$88,000.00
9. Security Fencing (seawall) and gate	<u>\$178,000.00</u>
GRAND TOTAL	\$1,200,000.00

Additionally, the \$1.2 million Addendum No. 1 differed in scope and price offered by Technomarine in its bid submitted in response to the ITB 2017-02.

Payment to Technomarine

On February 13, 2018, City Manager Williamson emailed Mr. Talton and City Finance Director, Ms. Batista Francis, for the purpose of introducing the two individuals:

...for developing the protocol for expending funds to Techno Marine [sic]. Mrs. Batista please communicate with Mr. Talton and his finance manager moving forward. All spending allocations will first be approved by the City Manager before release, **based on services and products being delivered**. Thanks. [Emphasis added]

On February 13, 2018, Mr. Talton emailed a Pay App for \$217,500 to Ms. Francis, who in turn forwarded it to the City Engineer for review. The line item descriptions and the scheduled values of this Pay App matched the line items of Addendum No. 1 dated February 13, 2018, which had not been reviewed or approved by the City Commission or the City Attorney prior to execution.

On February 15, 2018, the City Engineer, Mr. Myrick, recommended that the City reject the Pay App. In an email to Mr. Talton copied to City Manager Williamson, Mr. Myrick stated:

I've reviewed the payment application you submitted to the City and the associated agreements and can not [sic] recommend approval as submitted. **I understand from our discussion that you are billing for pre-work...**

...

2. Fishing Pier Construction:

a. **No construction has started on this line item and I cannot in good conscience recommend 50% payment on this item.** I will speak with the City Manager directly to understand any other commitments made but can't recommend payment on this item at this time.

b. Please provide any backup documentation to substantiate the payment request and I will review and consider. [Emphasis added]

On February 20, 2018, Ms. Francis asked Mr. Talton to submit a revised Pay App. On February 22, 2018, Mr. Talton emailed a revised Pay App No. #1 for \$150,000 to Ms. Francis. She thanked Mr. Talton for sending it but noted that the form document "states that it is only valid if notarized. Will you be able to have it notarized?" Mr. Talton responded to Ms. Francis, "Yes, I can notarize today. I want to make sure it's the format you and Chandler want before I sign?" Ms. Francis asked Mr. Talton, "can you breakdown the \$150,000 on the AIA?" Mr. Talton responded, "It's a lump sum cost." Ms. Francis replied to Mr. Talton, "Per the department [FDEO], they need to know the exact cost of each line item that totals up to the \$150,000.00." Although the revised Pay App #1 referred to the \$1,200,000 Contract Addendum No. 1 (Pre-Construction Services), the breakdown of the items listed in the Pay App reflected the items in the \$150,000 Design Build Contract. The OIG found no information to suggest that City staff forwarded the revised Pay App. #1 to the Engineer, as had been done with the original Pay App. During his interview with our office, City Manager Williamson stated, "it would not have mattered if AE Engineering approved the payment or not because the payment was stipulated by contract." City Manager Williamson also stated that he did not speak with the City Attorney to verify that the \$150,000 should be paid.

On February 23, 2018, Mr. Talton emailed the City Attorney, Gary Brandenburg, with copy to City Manager Williamson, stating,

...following up regarding the attached Design-Build Services agreement.³
Please send me the fully executed contract. **The City is ready for Technomarine to begin these services.** Thank you. [Emphasis added]

On February 27, 2018 Mr. Talton emailed City Manager Williamson, Ms. Francis, and copied Ms. Jongelene Adams, the City's Director of Community and Economic Development, who was officially the Project Manager. He said in the email:

Attached is the latest Payment Application #01, adjusted as requested. I understand this is the first payment request. As discussed Technomarine **will continue adjusting as needed to satisfy the City of Pahokee...**Here to help. [Emphasis added]

³ This was a reference to the January 22, 2018 contract for Design-Build Services for \$150,000 between Technomarine and the City.

Ms. Adams responded,

Attached is a draft copy of how we need the pay app to read for reporting purposes. As discussed on the phone please ensure we have backup documentation for the tasks on the pay app as well as indicated on the attached contract received from you.

The revised Pay App #1 was for a total of \$150,000. The descriptions and scheduled values agreed with the items listed in the January 22, 2018 Design-Build contract, which had been approved by the City Commission. The City paid Technomarine this amount via check number 16903 dated February 28, 2018. The City did not receive the backup documentation requested from Technomarine with Pay App #1. City Manager Williamson and Jat Talton, the former President of Technomarine who signed the revised Pay App #1 have acknowledged that at the time of the Pay App #1, Technomarine had not completed the work outlined in Pay App #1.

City Identified Technomarine Performance Issues

In interviews with former and current City staff, we learned that in March 2018 City Manager Williamson and Ms. Adams met with Mr. Talton, Mr. Myrick, and Mr. Robert Lambert, a potential lessee of the marina restaurant, to discuss performance concerns and to ensure completion of all work by the June 30, 2018 grant deadline per the FDEO Agreement between the City and FDEO. It was agreed that as a result of the March 2018 meeting, Technomarine needed to provide the City with a list of subcontractors that would complete the work specified in Addendum No. 1. On April 2, 2018, Technomarine emailed the City the requested subcontractors' quotes. On April 3, 2018, Technomarine received an email from City Attorney Brandenburg instructing the company to stop work on the project.

April 13, 2018 Special Commission Meeting

The City Commission held a Special Commission meeting on April 13, 2018.

City Manager Williamson stated:

The purpose of this special meeting tonight is to discuss the progress of the agreement with Technomarine and to decide on a way forward for the renovations at the Marina.

Later in the meeting, City Manager Williamson stated:

It's April 13th, and nothing has been done, except some people shoving a lot of paper in my face...in my honest opinion this contract is not where it should be at this timeline[sic]...let me take out the word construction, because we aren't really constructing anything here now that the pier is gone, these are renovations, 'painting, nuts and bolts' the pier comes in phase two, ok so

let's just be real honest here these are renovations, not construction...my recommendation is that we move forward without Technomarine.

During the Commission meeting, Technomarine CEO, Mr. Sanderson, presented to the City Commission a copy of the February 13, 2018 Addendum No. 1 which was signed by City Manager Williamson and Technomarine for \$1.2 million in services that did not include tasks included in the ITB or the January 22, 2018 Design Build Services contract. The City Commission was not aware that City Manager Williamson signed this \$1.2 million Addendum No. 1.

City Attorney Brandenburg stated during the meeting that he had seen that addendum, but it was never approved by the City Commission. City Attorney Brandenburg asked the City Commission to give him permission to modify the Design Build Services contract with Technomarine before June 30, 2018. A motion was made and passed unanimously giving City Attorney Brandenburg authority to work with Technomarine to modify the contract so that all deadlines could be met, and to include the changes such as itemizing the pricing and all the requirements and deadlines that were submitted to the City Commission in a two-page letter from Technomarine provided to them that day.

April 24, 2018 Regular Commission Meeting

The City Commission held a Regular Commission meeting on April 24, 2018. City Attorney Brandenburg explained to the City Commission that he had negotiated with Technomarine and developed a "lengthy Design Build agreement" that was attached to the agenda as "Item O: REPORT OF THE CITY ATTORNEY 1. Technomarine Contract." This new contract included the new pricing for work that Technomarine proposed to complete in lieu of the fishing pier. City Attorney Brandenburg recommended that the City Commission review and consider this new negotiated contract with Technomarine.

After the City Attorney's report and based on City Manager Williamson's recommendation, the City Commission decided unanimously to cancel the Technomarine contract in its entirety. The City Commission did not review or consider the new contract negotiated by the City Attorney with Technomarine prior to making this decision.

Lawsuit filed by the City against Technomarine

After the City decided to cancel all contracts with Technomarine at its April 24, 2018, meeting, City Attorney Brandenburg sent Mr. Sanderson a letter dated May 3, 2018. In that letter, he stated:

The City had paid you a \$150,000 advance payment. Correspondence from your firm indicated that only \$25,000 had been earned by Technomarine as of April 26, 2018. Please accept this letter as the City's demand for return of \$125,000 immediately. These are State of Florida Grant Funds. Failure to promptly return the money may result in severe consequences under the

Grant program, including the possibility of disbarment from State or State-funded future work.

Technomarine failed to return the \$125,000 to the City, and the City filed a lawsuit against Technomarine to recover this amount. On May 29, 2018, the court entered an Order to Strike and Default Final Judgement against Technomarine for \$125,000. To date, Technomarine has not paid the judgement total of \$125,000 to the City.

FINDINGS

FINDING (1):

City Manager Williamson improperly authorized the payment of \$150,000⁴ to Technomarine in violation of the FDEO Grant Agreement.

OIG Review

FDEO entered into FDEO Agreement # HL081 with the City.

Section 1.6.11(1) of the FDEO Agreement stated that:

Grantee and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures.⁵

The Reference Guide for State Expenditures includes a section on, Advances Pursuant to section 215.422(14), Florida Statutes. Item 2 of Advance Payments of the Reference Guide for State Expenditures specifies that advance payment may be made for goods and services if approved in advance by the Bureau of Auditing. Criteria for approval include:

Advance payment will result in a savings to the State that is equal to or greater than the State would earn by investing the funds and paying in arrears OR

The goods or services are essential to the operation of a state agency and are available only if advance payment is made.

⁴ This amount is considered a questioned cost.

⁵ <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>

The Department of Financial Services Reference Guide for State Expenditures updated February 2011 is the version that was in effect during the Project period. However, the applicable section remains unchanged in content in the latest version updated on November 1, 2019.

Requests for advance payment approval must include information indicating that the payment meets one of the above criteria and that the agency has complied with applicable procurement requirements.

The City did not request permission to make an advance payment in any amount to Technomarine from the State Bureau of Auditing.

Technomarine submitted revised Pay App #1 to the City on February 22, and on February 23, Technomarine notified the City Attorney, with copy to City Manager Williamson, that “the City is ready for Technomarine to begin these services” outlined in the Design Build contract for \$150,000. It appears that the City was on notice that the work outlined in the revised Pay App #1 had not been completed. Additionally, we have not received any documentation, after numerous requests, to justify the payment of the \$150,000 to Technomarine. In subsequent litigation between Technomarine and the City, the City acknowledged that it had paid Technomarine for work that had not been completed.

Nevertheless, City Manager Williamson approved the issuance of check number 16903 dated February 28, 2018 to Technomarine in the amount of \$150,000.

In the April 13, 2018 Special Commission meeting, Mayor Babb asked City Manager Williamson, “who authorized the \$150 [sic] payment to Technomarine when we had information that most or none of the work was being done?” City Manager Williamson responded, “That wasn’t for work.” He continued stating that when the City signed off and gave Technomarine an agreement making them the master developer for the project that Technomarine came to the City and said that in order to get their engineering, permitting and build design started, they needed this “advance” to move forward. City Manager Williamson continued saying, “that was a decision we all made with the Engineer and the Planner.” Mayor Babb asked who is “we” as the City Commission had not approved the payment. City Manager Williamson replied that since the Commission had approved the contract he did not have to come back to them for approval to make the payment.

Additionally, in a phone interview on June 24, 2019, City Manager Williamson stated that the \$150,000 payment to Technomarine was a deposit for mobilization and for Technomarine to start the work. City Manager Williamson stated that per Technomarine it was for “administrative mobilization.”

City Manager Williamson’s statements at the April 13, 2018 Special Commission Meeting and during a phone interview with office staff on June 24, 2019 demonstrates that City Manager Williamson made advance payments to Technomarine despite failing to request and receive permission from the state Bureau of Auditing to make such payments. Failing to comply with grant specifications puts the City at risk of loss of funds or repayment of funds inappropriately expended.

Recommendations:

- (1) City officials responsible for managing grants become familiar with grant terms and comply with applicable terms and specifications.
- (2) The City develop and implement a policy/procedure about grant administration and train City staff.
- (3) As a part of the City's policy and/or procedure regarding grant administration, the City should consider the development and implementation of a Project Implementation Plan (PIP) for grant awards.⁶

FINDING (2):

The City failed to comply with section 255.05, Florida Statutes, by not requiring Technomarine to secure a payment and performance surety bond before beginning any work and by paying Technomarine before receiving a certified copy of the recorded bond.

OIG Review

Section 255.05(1), Florida Statutes states,

A person entering into a formal contract with the state or any county, city or political subdivision thereof, ... for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work... to execute and record in public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety....

(b) Before commencing the work..., the contractor shall provide to the public entity a certified copy of the recorded bond. ...the public entity may not make a payment to the contractor until the contractor has complied with this paragraph....

The City did not obtain proof that Technomarine obtained a payment and performance bond prior to authorizing work to begin. The City did not require Technomarine to provide it a copy of the recorded bond before making the \$150,000 payment. A performance bond will protect the owner against possible losses in case a contractor fails to perform or is unable to deliver the project as per established and the contract provisions. The

⁶ A sample PIP is included in Hillsborough county's Grants Administration Handbook, 3rd Edition, Version 2.0. www.hillsboroughcounty.org/library/hillsborough/media-center/documents/grants/grantsadminhandbook.pdf page 23.

City's failure to secure a bond put the City at risk that it would have limited recourse to remedy the contractor's default in the performance of the contract.

Recommendations:

(4) The City develop and implement a policy/procedure that includes construction requirements and compliance with section 255.05, Florida Statutes.

(5) The City provide training to staff on the requirements in section 255.05.

FINDING (3):

The City violated Pahokee, FL Code of Ordinances, Sec. 2-272(4)(a) and the FDEO Agreement by not issuing a competitive solicitation for services outlined in the Design Build contract and the Pre-Construction Services Contract Addendum No. 1.

OIG Review

The City's Code of Ordinances in Section 2-272(4)(a) states, "All purchases exceeding ten thousand dollars (\$10,000.00) shall be awarded after receiving bids."

The FDEO Agreement in Attachment 1, Scope of Work, section 2.1.1. states, "Grantee shall follow the City's procurement policies and procedures in obtaining vendors and contractors to construct the Marina campground site."

Although the City issued a solicitation, the contracts between the City and Technomarine differed from the solicitation with regard to the terms and conditions, offer and acceptance, and consideration. The City did not approve an award for any formal solicitation related to the Project. The City did not complete a competitive solicitation for tasks included in the January 22, 2018 Design-Build Services contract for \$150,000 or for tasks included in Addendum No. 1 entered into by City Manager Williamson for \$1,200,000 on February 13, 2018 with Technomarine.

Failing to comply with grant specifications put the City at risk of loss of funds or repayment of funds inappropriately expended.

Recommendations:

(6) The City comply with its ordinances.⁷

⁷ The City's Independent Accountant's Report issued on March 19, 2019 by Nowlen, Holt & Miner, P.A. for the audit year ending September 30, 2017 included a finding that had been identified in the audit of the fiscal year ending September 30, 2016. (The City's fiscal year ending 2018 audit is not available). The repeat finding indicated, "The City has not adequately trained staff to implement purchasing procedures and management has not adequately monitored the purchasing process.... We noted the following instance of noncompliance with purchasing procedures: 1) Purchases in excess of ten thousand dollars not approved by the City commission 2) Competitive bids were not obtained for purchases in excess of ten thousand dollars..."

- (7) The City develop and implement a policy/procedure to provide direction to City staff to comply with Sec. 2-272.**

FINDING (4):

City Manager Williamson violated Pahokee, FL Code of Ordinances, Sections 2-272(3) and 2-83 by executing the \$1.2 million Addendum No. 1 with Technomarine and allowing Technomarine to start work when such addendum had not been approved by the City Commission or the City Attorney.

OIG Review

The City's Code of Ordinances in Section 2-272(3) states, "Purchase Limitations. No purchase exceeding ten thousand dollars (\$10,000) shall be made without the approval of the city commission."

City Manager Williamson did not have the authority to sign the \$1,200,000 contract Addendum No. 1 for the City. Only the City Commission could approve such an expenditure. City Manager Williamson did not take the contract to the City Commission for approval before signing Addendum No. 1 or any time after signing the Addendum.

Additionally, the City's Code of Ordinances, Section 2-83 –states:

Division 3.-CITY ATTORNEY Sec. 2-83. – Duties.

...

(b)...shall prepare or review all contracts, bonds, and other instruments in which the city is concerned, and shall endorse thereon approval or disapproval of the legal sufficiency of the form. No contract with the city shall take effect until it has been so endorsed as approved by the city attorney.

Addendum No. 1 was never approved by the City Attorney, which is in violation of the City's ordinance. An ordinance that requires the City Attorney to review any contract and either approve or disapprove the legal sufficiency of the document reduces the City's potential for making contract errors, for entering contracts that are inconsistent with the City's policies and procedures, for agreeing to terms that unduly increase the City's legal or financial exposure or that can result in unintended consequences and costs to the City.

Recommendations:

- (8) The City Manager comply with FL Code of Ordinances, Sec. 2-272.**
- (9) The City Manager not sign agreements that have not been reviewed by the City Attorney to either approve or disapprove the legal sufficiency of the document.**

ISSUE (1):

Technomarine submitted a false Pay App for \$150,000 to the City certifying that it had completed all the work specified in the pay application when the company knew the work had not been completed.

OIG Review

On February 13, 2018 Technomarine submitted a nonnotarized Pay App for \$217,500 that was based on the line item descriptions and the scheduled values of Addendum No. 1, which was signed on February 13, 2018. The City Engineer rejected the Pay App as submitted, because it was his understanding that the billing was for pre-work and that since no construction had begun on the fishing pier he couldn't recommend 50% payment on that item.

On February 22, 2018, Ms. Francis asked Mr. Talton for a revised Pay App. On February 22, 2018, Mr. Talton emailed a revised Pay App #1 for \$150,000 to the City. On February 22, 2018, Ms. Francis asked Mr. Talton, "can you breakdown the \$150,000 on the AIA?" Mr. Talton responded stating, "It's a lump sum cost." Ms. Francis responded stating, "Per the department, they need to know the exact cost of each line item that totals up to the \$150,000.00." On February 27, 2018, Mr. Talton emailed Mr. Williamson and Ms. Francis:

Team,

Attached is the latest Payment Application #01, adjusted as requested. I understand this is the first payment request. As discussed Technomarine will continue adjusting as needed to satisfy the City of Pahokee...Here to help.

Best, Jat Talton

Mr. Talton attached his notarized signature to the revised Pay App #1 (titled Request for Payment), which contained the following language, on Page 1:

The undersigned hereby certifies that the account of the undersigned against the above General Contractor, for all materials and supplies furnished, **and labor and services of every nature performed by the undersigned for use on or in connection with the above-named Project, has been paid in full** through the above-mentioned pay period (except as listed below),....[Emphasis Added]

Page 2 outlined six tasks that had been 100% completed. The tasks identified on Page 2 of the notarized, revised Pay App #1 were based on the line item descriptions and the scheduled values of the Design Build contract dated January 22, 2018. There were no Sub(s) or Material Suppliers who had not been paid in full listed on the Pay App.

On July 24, 2019, Mr. Talton told our office that the \$150,000 was an advance payment and reimbursement. Mr. Talton stated it was a collective decision between Technomarine

and the City that it was time to bill the client. He stated that City Manager Williamson told him that he needed to show that the City was moving forward with spending the grant for its quarterly reports to FDEO and that Technomarine provided the Pay App form to initiate the check request. Later, however, Technomarine acknowledged that only \$25,000 of the work had been completed. Technomarine submitted a false Pay App in order to justify the release of grant funds from the City to Technomarine.

Additionally, we found sufficient information to warrant referral of Issue (1) to the State of Florida, Department of Legal Affairs, for a review of whether Technomarine's false certification of Pay App #1 in order to secure the release of funds under the FDEO Grant constitutes a false claim under section 68.082, Florida Statutes.

Recommendations:

(10) The City develop and implement procurement policies and procedures and procedures for project management and effective contract administration.

The policies and procedures should include verifying and inspecting deliverables prior to approving and issuing payment. "Accepted deliverables may include approved product specifications, delivery receipts, and work performance documents."⁸

Documenting the verification of deliverables further supports the acceptance of deliverables. "The State of Florida Contract and Grant User Guide" in its Payment Verification section provides the user payment verification actions to use for cost reimbursement contracts.⁹

RESPONSE FROM CITY

On February 10, 2020, City Manager Williamson submitted, on behalf of the City, a response to the report. The City of Pahokee accepted the 10 recommendations. Reference Attachment A for the City's response to the report which included a draft copy of the complaint the City filed against Technomarine.

RESPONSE FROM TECHNOMARINE

On February 3, 2020, our office received a response to the report from Mr. Sanderson's attorney. Reference Attachment B for a copy of the response.

⁸ Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge 5th Edition*, 2013, Project Quality Management, p.252. An inspection is the examination of a work product to determine if it conforms to documented standards. The results of an inspection generally include measurements and may be conducted at any level. For example, the results of a single activity can be inspected, or the final product of the project can be inspected.

⁹ "State of Florida Contract and Grant User Guide," Department of Financial Services, Division of Accounting and Auditing, p34.

Mr. Talton was provided the opportunity to submit a response to the report, but did not submit a response.

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight staff would like to extend our appreciation to the City of Pahokee and Technomarine Construction, Inc. for the cooperation and courtesies extended to us during the contract oversight process.

This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Contract Oversight and Evaluations Director by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

ATTACHMENT A: CITY'S RESPONSE



City of Pahokee

207 Begonia Dr.
Pahokee, FL 33476
Phone: (561) 924-5534
Fax: (561) 924-8140

www.cityofpahokee.com

COMMISSIONERS

Keith W. Babb Jr.
MAYOR

Clara "Tasha" Murvin
VICE MAYOR

Regina Bohlen
COMMISSIONER

Benny L. Everett, III
COMMISSIONER

Felisia Hill
COMMISSIONER

ADMINISTRATION

Chandler Williamson
CITY MANAGER

Nylene Clarke
CITY CLERK

Burnadette Norris-Weeks
CITY ATTORNEY

February 10th, 2020

TO: Karen Mayer, Director of Contracts Oversight and Evaluations

From: City of Pahokee, City Commission

CC: John A. Carey, Inspector General

RE: Response To Review of Techno-Marine Construction Contract

Attached is the City of Pahokee's response to a review of a City contract(s) with Techno-Marine Construction, Inc. Our report includes definition of staffing, analysis of findings, and a response, supporting documents if any available, and response to recommendations.

For all recommendations agreed upon the City has provided either a timeline or an explanation if the recommendation has been implemented prior to issuing of this review. The City of Pahokee and the Commission appreciates the review and recommendations that will assist the City in strengthening its applicable practices and operations.

Thank you,

Chandler F. Williamson, MPA, DPA(20)

c/Mayor Keith W. Babb, Jr.
Vice Mayor Clara "Tasha" Murvin
Commissioner Regina Bohlen
Commissioner Benny Everett
Commissioner Felicia Hill

The Grassy Waters Gateway to Lake Okeechobee



Duties/Responsibilities of Staff At Time of Award/Bid/Contract Execution (2016-18)

Department of Community Economic Development (C&E)/J. Adams (Former Employee)

Duties: Create bid documents for advertisement
 Conduct Pre-Bid meetings/prerequisites
 Recommend awarding of contracts to City Manager
 Creates draft agreements and/or contracts
 Manage Project with City Engineer administratively
 Creates pay applications for execution by finance department.
 Meet with contractor and monitors project through completion
 Completes quarterly reports to funding agency
 Completes closeout of project to funding agency

City Attorney, Gary Brandenburg (Former Employee)

Duties:
 Drafts and reviews contracts for legal sufficiency and all required prerequisites
 Provides recommendations for contract revisions and additions
 Ensure contracts include the necessary language for approval, i.e. insurance, liability and other deterrents.
 Provides legal representation and counsel involving matters of litigation, court cases, etc.

Engineer, AE Engineering, Rod Myrick

Duties: Create scope of projects and contract language
 Recommend development of Bids to Dept. of C&E
 Assist and facilitate Pre-Bid Meetings
 Recommends award of bid responses to City
 Assist in developing contract terms and recommends to Dept. of C&E
 Reviews progress and recommends to Dept. of C&E payments applications on project progress.
 Meet with project manager on-site to review progress per agreement/timeline etc.
 Meet with General Contractor, monitor project through completion and closeout of project.
 Develops project completion certificate and forwards to Dept. of C& E for closeout to funding agency.

City Manager

Duties: Directs staff to create bid advertisements, create agreements, and contracts
 Receive recommendations from Dept. of C& E, Engineer and City Attorney.
 Submits agreements/recommendations by staff for agenda
 Recommend to City Commission reports and documents vetted by project Team
 Approves payments developed by Dept. of C&E, Finance Dept. and Engineer
 Maintains internal communication with City Project Manager.
 Approves closeout of project quarterly report.



Finding 1. Release of \$150,000 to Techno-Marine in violation of FDEO Grant Agreement.

City Response: The City has requested clarification from the Department of Economic Opportunity as it pertains to (215.422 FS). The statement on April 13th 2018 **“that wasn’t for work”** was management attempt to explain the project and the tasks items that Techno-Marine had issued to **induce** the City to execute payment. The items included topographic surveying, advance permitting, geo-graphical assessments, initiating other workloads and administrative mobilization. From a review of the exchanges between staff and the contractor it was considered at the time the tasks items to be **influx and simultaneously being executed at the time of submission of payment application**. Leading staff to believe that there would be no delay in delivery of services and in good faith Techno-Marine would swiftly expedite the tasks items. Upon the receiving the pay application the finance department processed and forwarded to the City Manager a request to pay for tasks items to Techno-Marine.

Recommendations:

1 City officials responsible for managing grants become familiar with grant terms and comply with applicable terms and specifications.

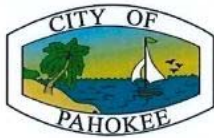
- **City Response:** City agrees with this recommendation. City agrees that city officials must become more familiar with contract language, grant terms, and the definitions of design build, direct build, reimbursables, progress development and other pertinent language for projects typically known and practiced in the industry. The City Manager (Mr. Williamson) will provide terms and industry language to the Commission typically utilized by staff and funding entities. **March 1st, 2020**

2. The City develop and implement a policy/procedure about grant administration and train City staff.

- **City Response:** City agrees with this recommendation. This project was the first of its caliber for new staff, engineer and others involved. Initial administrative challenges were abundant. Post-completion the city received recommendations in October of 2018 on best practices for staff. The City provided in November of 2018 the opportunity for staff to attend seminars and training on grant development and management. Currently the city provides opportunities for the grant department to receive annual training. Grant certification is currently a prerequisite to work in the Department of Community and Economic Development if not attained by hire date. The requirement was implemented in **December 2018**. The former Director of C & E was scheduled to received training but resigned on November 15th, 2018, the City thereafter hired an experienced grant administrator in January 2019.

3. As a part of the City’s policy and/or procedure regarding grant administration, the City should consider the development and implementation of a Project Implementation Plan (PIP) for grant awards.

- **City Response:** The city agrees with this recommendation. As it pertains to creating a Project Implementation Plan, currently, the city practices protocols of executing a project from bid to shovel. However, emphasis of these practices can be revised to represent a PIP. Deadline for Completion **March 30th, 2020**



Finding 2: The City failed to comply with section 255.05, Florida Statutes, by not requiring Techno-Marine to secure a payment and performance surety bond before beginning any work and by paying Techno-Marine before receiving a certified copy of the recorded bond.

City Response: The City at that time had a team approach to contract development and terms. Several departments were involved before the project was executed by contractor/vendor. Upon further review the city discovered that a bond was unintentionally not reviewed and requested during the creation of the agreement, planning & development stages, and issuance of the Notice to Proceed to Techno-Marine.

Recommendations:

1. The City develop and implement a policy/procedure that includes construction requirements and compliance with section 255.05, Florida Statutes.

- **City Response:** The City has standard protocols for construction in accordance with section 255.05 FS. that can be modified. Moving forward protocols will be further defined and included in the development of contracts and reviewed before Notice to Proceed is issued to prevent oversights. By **April 1st, 2020**, staff will receive additional training and inter-departmental staff sessions pertaining FS 255.05 as it relates to construction requirements, contracts and prerequisites involving bonds, liability insurance, and other protective measures for the best interest of the City. Departments to be included are Finance Department, Department of Community and Economic Development and Building, Planning, and Zoning.

2. The City provide training to staff on the requirements in section 255.05

City Response: The City agrees with this recommendation. The City will provide access to training as it pertains to section 255.05 FS by **March 30th, 2020**. The City will consult with other entities on the best channels to access the particular training and information referenced in 255.05.

Finding 3: The City violated Pahokee, Code of Ordinances, Sec. 2-272(4)(a) and the FDEO Agreement by not issuing a competitive solicitation for services outlined in the Design Build contract and the Pre-Construction Services Contract Addendum No.1

Response: The City to its credit bided the scope of work. Upon being awarded the bid in October 2017 to Techno-Marine two contracts were drafted as it pertains to first (1st) scope of work and secondary scope (January 2018) (specifying design build items). The City entrusted deliverables by staff to be sufficient and in compliance/accordance with Sec. 2-272. Management at the time had confidence that staff aligned the bids/solicitation appropriately. In review the City recognizes the addendum did not receive the proper channels due to a lack of knowledge and experience with ordinances and Sec. 2-272 (4). Moreover, solicitations were not clearly defined based on what the pre-construction addendum 1 provided.



Recommendations:

6. The City complies with its ordinances.

- City Response: The City is in agreement with the recommendation. All city staff will receive a review of ordinances as it pertains to procurement/contract agreements. The deadline for this review is **March 1st, 2020**

7. The City develop and implement a policy/procedure to provide direction to City staff to comply with Sec. 2-272.

- City Response: The City is in agreement with the recommendation. The city manager (Mr. Williamson) is drafting an internal compliance policy to address Sec. 2-272. In addition, before bid release to public, staff will be required to review the scope of work to ensure it complies with eventual contracts to be approved. Deadline for internal policy **April 1st, 2020**

Finding (4):

City Manager Williamson violated Pahokee, FL Code of Ordinances, Sections 2-272(3) and 2-83 by executing the \$1.2 million Addendum No. 1 with Techno-marine and allowing Techno-Marine to start work when such addendum had not been approved by the City Commission or the City Attorney.

City Response: At the time it was uncertain to the City Manager what design build entitled or required. With a critical timeline looming from DEO for management to meet a deadline; Mr. Williamson was under the interpretation that the design build language involved the delivery of the remaining task items. However, in post-review an evaluation and approval of the addendum 1 should have been part of the final executed actions by the City before preceding forward with the project.

Recommendations:

8. The City Manager comply with FL Code of Ordinances, Sec. 2-272.

- City Response: The City is in agreement with the recommendation.

9. The City Manager not sign agreements that have not been reviewed by the City Attorney to either approve or disapprove the legal sufficiency of the document.

- City Response: The City is in agreement with recommendation. The City Administration will ensure addendums of contracts receive a staff and legal review for sufficiency. In addition, the City Manager pledges to work more closely with staff to understand the usage of contract language on design build contracts and all others agreements.

10. The City develop and implement procurement policies and procedures and procedures for project management and effective contract administration.

- City Response: The City is in agreement with recommendation. The City currently has an ordinance and procurement policy to support bids/solicitation, project



management, and contract administration. The City will review policies to ensure they capture the procedures of procurement. If other revisions are required the city will include in its current procurement policy. Thereafter, the City Manager will require an inter-departmental review on a quarterly basis these procedures for professional services(engineer), Department of Community and Economic Development, Finance Department, and Senior Management (City Manager). Quarterly reviews of policies will begin on **March 1st, 2020** and thereafter every 3 months (as needed) with appropriate staff.

Conclusion of Techno-Marine

On April 26th the City terminated its relationship with Techno-Marine. Thereafter Mr. Brandenburg requested a return of \$125,000 to the City for undeliverables. On May 25th, 2019 the City Attorney (Gary Brandenburg) filed suit on behalf of City against Techno-Marine indicating a chronological timeline involving the initial mobilization/contract agreement between the City of Pahokee and Techno-Marine.

Included in the City's claims are items 22-26 of the filing; Titled Fraudulent Misrepresentation Against Techno-Marine, pages 4 and 5. (See Attached for Draft of Complaint Filed)

Subsequently, during the filing of the City of Pahokee's case, it was discovered that Techno-Marine had additional lawsuits filed by other Municipalities for failed deliverables ending in a request of returned funds, loss of funds etc. While many challenges were abundant for the new administration during its first large construction project, the city has taken measures to eliminate future errors and misinterpretations of City Ordinances, Florida Statutes, and construction protocols.

City agrees to strengthen its knowledge of these areas and will continue to seek, research, and execute all opportunities to ensure accountability is at the forefront. The City and City Commission is committed to ensuring that future projects represent the highest factors of responsibility and good stewardship.

The City of Pahokee would like to thank the Inspector General's Office and its entire professional staff for providing the City with this review and recommendations.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

Case No.

CITY OF PAHOKEE,

Plaintiff,

vs.

TECHNOMARINE CONSTRUCTION, INC.,

Defendant.

_____ /

COMPLAINT

COMES NOW, the Plaintiff, CITY OF PAHOKEE, a municipal corporation existing under the Constitution of the State of Florida (PAHOKEE), and hereby sues Defendant, TECHNOMARINE CONSTRUCTION, INC., a Florida corporation (TECHNOMARINE) and alleges as follows:

1. This is an action for recovery of One Hundred Twenty-Five Thousand Dollars (\$125,000), exclusive of interest, costs, and attorney fees.
2. At all times material hereto, Plaintiff, PAHOKEE, was and remains a Florida Municipal Corporation located in Palm Beach County, Florida.
3. At all times material hereto, Defendant, TECHNOMARINE was a Florida corporation authorized to conduct business in Palm Beach County, Florida.
4. Venue is proper in Palm Beach County, Florida, because the Plaintiff's municipality is located within Palm Beach County, the Defendant engages in business in the City of Pahokee within Palm Beach County, and the alleged acts and obligations of the Defendants arose in the City of Pahokee within Palm Beach County.

**COUNT I: BREACH OF CONTRACT BETWEEN CITY OF PAHOKEE AND
TECHNOMARINE CONSTRUCTION**

5. The Plaintiff PAHOKEE issued a Request for Proposals (RFP) for renovation and construction of structures at the Pahokee marina. The Defendant TECHNOMARINE submitted a proposal to Plaintiff in response to this RFP. TECHNOMARINE's proposal was accepted by PAHOKEE on or about November 27th, 2017. As a result, PAHOKEE and TECHNOMARINE entered into two written contracts for services, first on December 4th, 2017, and again on January 22nd, 2018.
6. The December 4th agreement, in the amount of Eight Thousand Five-Hundred (\$8,500) Dollars, required TECHNOMARINE to research the project site and develop a layout plan for the proposed facilities. A copy of this contract is attached hereto and incorporated herein as Exhibit "A".
7. The January 22 agreement, in the amount of One Hundred and Fifty Thousand (\$150,000) Dollars, required a scope meeting, bathymetric/topographical surveys, development of conceptual plans, pre-application meetings, preparation, submission of, and the processing of permit applications and final construction plans, and the conducting of geotechnical and wind and wave studies. A copy of this contract is attached hereto and incorporated herein as Exhibit "B".
8. The City Manager met with TECHNOMARINE on several occasions to discuss the scope of work and to agree upon a schedule for completion of each of TECHNOMARINE's obligations.
9. At all times material hereto, TECHNOMARINE was aware that the source of the project's funding is a State of Florida grant, Department of Economic Opportunity Agreement #HL081, entered into on or about July 6th, 2017. A copy of Agreement #HL081 is attached hereto and incorporated herein as Exhibit "C".
10. TECHNOMARINE submitted a payment request on February 26th, 2018, for One Hundred Fifty Thousand (\$150,000) Dollars. A copy of the payment request is attached hereto as Exhibit "D". PAHOKEE relied on the affidavit in the payment request, and made the requested payment. A copy of the check is attached hereto as Exhibit "E".

11. Pursuant to PAHOKEE'S Grant with the State of Florida, all work was to be completed by June 30th, 2018. TECHNOMARINE failed to commence the work on time, show any progress, or physically perform any work at the marina within the time schedule agreed to with the City Manager.
12. The Grant Agreement provided funding to design and construct a fishing pier, construct a deck at the marina restaurant, and other miscellaneous items such as lighting and a camera security system. TECHNOMARINE was chosen by Pahokee primarily for its proclaimed experience in design and construction of fishing piers.
13. The City Manager and City Commission subsequently determined that it was in the best interest of PAHOKEE to forego the design and construction of the fishing pier. TECHNOMARINE was notified of this change in direction and was requested to provide PAHOKEE with a new proposal for the other miscellaneous work and repairs to the existing PAHOKEE marina.
14. In response to the City Commission decision a stop order was issued to TECHNOMARINE by email on April 3rd, 2018. A copy of the stop order is attached hereto and incorporated as Exhibit "F".
15. TECHNOMARINE submitted a New Proposal which was over budget. A copy of the New Proposal is attached hereto and incorporated herein as Exhibit "G". The City Commission reviewed TECHNOMARINE's New Proposal on April 24th, 2018 and during this open public meeting, with TECHNOMARINE representatives present, determined not to proceed with the New Proposal.
16. TECHNOMARINE's expertise was in marina repairs/construction, not in areas required for the miscellaneous work, and this together with the company's lack of timely response to the previous work requests, caused the Commission to cancel and terminate the relationship with TECHNOMARINE.

17. TECHNOMARINE's New Proposal, and an email dated April 12th, 2018, to Gary Brandenburg, (copy attached hereto as Exhibit "H"), indicated it had only completed Twenty-Five Thousand (\$25,000) Dollars' worth of work pursuant to the January and December agreements.
18. PAHOKEE demanded One Hundred Twenty-Five Thousand (\$125,000) Dollars back for non-performance (copy attached hereto as Exhibit "I").
19. TECHNOMARINE has failed to return the One Hundred and Twenty-Five Thousand (\$125,000) Dollars of public funds.
20. PAHOKEE is obligated to account for and supply documentation for the use of all funds to the State of Florida, Department of Economic Opportunities, and is unable to provide any justification for TECHNOMARINE's withholding the return of State of Florida Grant funds.
21. TECHNOMARINE owes PAHOKEE a refund of One Hundred and Twenty-Five Thousand (\$125,000) Dollars for work which was never completed.

WHEREFORE, Plaintiff, CITY OF PAHOKEE, prays that this Honorable Court award Plaintiff One Hundred Twenty-Five Thousand (\$125,000) Dollars, and grant such other relief deemed appropriate.

COUNT II: FRAUDULENT MISREPRESENTATION AGAINST TECHNOMARINE

22. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1 through 18 above as if fully set forth herein.
23. Defendant TECHNOMARINE submitted a false payment application dated March 20th, 2018 which indicated complete, percentages of work, that had not been completed. A copy of this document is attached hereto and incorporated previously as Exhibit "D".
24. Defendant TECHNOMARINE knew that these representations were false and made these representations in order to induce PAHOKEE to proceed with payment of one hundred and fifty-thousand dollars (\$150,000).
25. As a consequence of this misrepresentation, PAHOKEE has been damaged in the amount of one hundred and twenty-five thousand dollars (\$125,000).

26. These misrepresentations by TECHNOMARINE were proven to be false by the April 12th, 2018 email to Gary Brandenburg which admitted that only one work task had thus far been completed totaling twenty-five thousand dollars (\$25,000) incorporated previously as Exhibit "H".

WHEREFORE, Plaintiff, CITY OF PAHOKEE, prays that this Honorable Court enters judgement against TECHNOMARINE for the return of these funds and grant such other relief as deemed appropriate.

VERIFICATION

I, Chandler Williamson, declare as follows:

I am the City Manager of Pahokee. I have personal knowledge of TECHNOMARINE and its activities, including those set out in the foregoing COMPLAINT. Under penalties of perjury, I declare that I have read the foregoing COMPLAINT and that the facts stated in it are true.

Executed on May ___, 2018.

Chandler Williamson
City Manager, Pahokee

The Foregoing pleading was acknowledged before me on May ___, 2018, by Chandler Williamson, as City Manager of the City of Pahokee who is known to me personally or has produced the following identification: _____

Notary Public, State of Florida
My Commission Expires:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, via First Class U.S. Mail to: Erik Sanderson, 1208 US HWY 1, Suite C North Palm Beach, FL 33408, this 29th day of May, 2018.

Gary M. Brandenburg, Esq.
Fla Bar No. 260096
Brandenburg & Associates, P.A.
11891 U.S Highway One, Suite 101
North Palm Beach, FL 33408
(561) 799-1414
gary@brandenburgpa.com
sandy@brandenburgpa.com

ATTACHMENT B: TECHNOMARINE'S RESPONSE

Tiffany Thomas

From: Aldo Beltrano
Sent: Monday, February 3, 2020 5:41 PM
To: Tiffany Thomas
Cc: John Carey A.; Karen Mayer L.; Nina Smith; Cindy Beltrano; Erik Sanderson
Subject: RE: Draft Report - City of Pahokee- Review of Technomarine Construction, Inc.

Tiffany,

This is what we would like to include in the report:

Jat Talton submitted the \$150,000 pay app upon the City's insistence that it be prepared a certain way to satisfy reporting requirements to the state, purportedly because the City needed to show the grant money being spent within a certain amount of time. TCI provided emails to Tiffany Thomas of the IGO which reflect the exchange taking place between Mr. Talton and the City, and tend to show that the City was pretty clearly steering this process.

TCI had a \$1.2 million contract with the City of Pahokee. Chandler Williamson represented that he was authorized to enter into that contract in his capacity as the City Manager. TCI had no reason to question Mr. Williamson and the fact that he overstepped his authority does not relieve the City of its contract obligations. TCI suffered approximately \$300,000.00 in lost profits when the City essentially pulled out of the agreement and issued a stop work order, even though TCI was ready, willing and able to perform this contract. This is not to mention the \$8,500 that the City did not pay for the preconstruction services that TCI performed.

Respectfully,

Aldo Beltrano, Esq.

Beltrano & Associates