

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (hereafter “Agreement”) is made and entered into as of the latest date of execution by any of the parties below (the “Effective Date”) by and between FLAGLER COUNTY (“Plaintiff”), and Defendants, UES PROFESSIONAL SOLUTIONS, LLC F/K/A UNIVERSAL ENGINEERING SCIENCES, LLC (“UES”) and BRIAN C. POHL, P.E. (“Brian Pohl”) (collectively, the “Defendants”) [collectively, “the Settling Parties”], as follows:

RECITALS

WHEREAS, Plaintiff is a political subdivision of the State of Florida located in Flagler County, Florida.

WHEREAS, in or around July 2015, Plaintiff and UES entered into a Professional Services Contract, which provided that UES would perform certain services for Plaintiff through written Proposals and Work Authorizations negotiated between the Plaintiff and UES.

WHEREAS, on or around October 25, 2018, Plaintiff requested that UES perform an inspection of 4888 Palm Coast Parkway NW, Palm Coast, FL (the “Sears Building”), in advance of the County’s purchase of that property. UES submitted a proposal to Plaintiff, which Plaintiff reviewed, approved, and transposed into a Work Authorization (“Work Authorization WA-19”). UES performed its inspection of the Sears Building, the findings for which were memorialized into two Building Condition Assessment Reports, respectively dated November 27, 2018 and December 12, 2018, both signed and sealed by UES employee, Brian Pohl (the “Project”).

WHEREAS, after the Project was completed, Plaintiff filed suit against Defendants in the Seventh Judicial Circuit, in and for Flagler County, Florida, in the matter styled *Flagler County vs. Universal Engineering Sciences, LLC, et al.*, Case No.: 2021 CA 00130 (hereafter “the Action”), asserting various claims against the Defendants relative to UES’s inspection services.

WHEREAS, Defendants expressly deny any negligence, fault, or violation of law relative to the Project and/or the Action, and deny they are liable in any way for the claims and allegations asserted in the Action and/or any alleged damages; and

WHEREAS, Plaintiff and Defendants wish to: 1) amicably compromise and resolve the Action and all claims relating to or arising from the Project and/or the Action, without the further expense and hardship of litigation; 2) dismiss Defendants from the Action with prejudice; and 3) memorialize the foregoing in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties hereto, Plaintiff and Defendants stipulate and agree as follows:

1. Settlement Terms. Within thirty (30) days of Defendants’ counsel’s receipt of this fully executed Agreement and counsel for Plaintiff’s executed W-9, Defendants or their designee shall pay Plaintiff the lump sum of One Hundred Twenty Five Thousand and Zero Dollars

(\$125,000.00) (hereafter “Settlement Proceeds”), in full, final, and complete settlement, release, accord, and satisfaction of the Action and any and all claims, disputes, lawsuits, demands, assigned claims, administrative actions, legislative actions, licensure actions, causes of actions, rights and/or liens that Plaintiff has, had, could have or may have against Brian Pohl, UES and/or their parents, owners, affiliates, divisions, subsidiaries, heirs, assigns, employees and/or insurers, in connection with the Action, the Project, and/or all losses or damages, if any, known or unknown, suffered or that may be suffered related to the Project or as a result of the Action or the allegations made therein, as more fully detailed in the General Release below. The Settlement Proceeds shall be paid to the “McKinnon & McKinnon Attorneys at Law, P.A. Trust Account” via check or wire transfer.

Payment of the Settlement Proceeds shall constitute the full, final, complete, and exclusive compensation to be paid by Defendants to Plaintiff, its insurers, and/or its attorneys under this Agreement or otherwise in connection with the Project, the Action, or the claims and allegations made in the Action. Defendants shall not be responsible for any taxes which may be due on the Settlement Proceeds and Plaintiff agrees to indemnify, defend and hold harmless Defendants from any tax liability which may become due on the Settlement Proceeds.

2. Dismissal. Within five (5) days of the date the Settlement Proceeds are received by Plaintiff’s counsel, Plaintiff shall voluntarily dismiss the Action against Defendants with prejudice and shall instruct its counsel to execute and file a Notice of Voluntary Dismissal with Prejudice, substantively identical to the Notice attached hereto as Exhibit “1,” which shall irrevocably implement the final dismissal of the Action as to Defendants with prejudice, including any and all claims asserted against Defendants in the Action. The parties hereto agree that the Court in the Action shall retain jurisdiction to enforce the terms of this Agreement.

3. General Release. Upon payment to Plaintiff of the Settlement Proceeds, Plaintiff, on behalf of itself, its Board of Commissioners, taxpayers, agents, employees, representatives, affiliates, successors, assigns, insurers, and attorneys, shall be deemed to have released, acquitted, and forever discharged Brian Pohl, UES and UES’s past, present, and future parents, owners, subsidiaries, divisions, affiliates, subconsultants, attorneys, employees, agents, representatives, partners, officers, directors, members, affiliates, principals, predecessors, successors, transferees, insurers, secondary insurers, carriers, and assigns (the “Releasees”) from any and all disputes, claims, cross-claims, third-party claims, assigned claims, claims assigned, actions, legislative actions, licensure actions, administrative actions, regulatory actions, causes of action, demands, rights, debts, liens, insurance, costs, expenses, attorneys’ fee claims, losses, and/or damages of any kind that Plaintiff had, now has, or may hereafter have on account of or in any way related to the claims and damages Plaintiff alleged or which could have been alleged in the Action, and any such losses, claims or damages arising out of or related to the Project and/or the Action.

Plaintiff further agrees to never assign and/or accept an assignment of any claim from any person or entity arising out of, connected with, pertaining, or in any way relating to the Project, the Action and/or the allegations asserted in the Action. Plaintiff further understands and agrees that this General Release constitutes an accord and satisfaction, a full and complete settlement and discharge of all present and future claims that have been asserted, could have been asserted, or might be asserted in the future against Defendants and the Releasees, and is a complete and conclusive defense to any suit, claim, lawsuit, or action against Defendants and the Releasees

which nevertheless may be hereafter brought arising out of, connected with, pertaining, or in any way relating to the Project, the Action, and/or the allegations asserted in the Action.

4. **Liens and Subrogation Interests; Indemnity.** Plaintiff represents that no other person or entity, including, without limitation, its Board of Commissioners, insurers, administrators, financial custodians, privies, assigns, agents, representatives, attorneys, lien holders, subrogated parties, any and all persons and/or entities acting on behalf of Plaintiff, or any other related or affiliated person or entity of any type, have a claim or lien against, or right, interest, or subrogated interest in, the proceeds of this settlement for services rendered to or on behalf of the Plaintiff. To the extent any such claims, liens, rights or interests exist, however, Plaintiff agrees to be fully responsible to resolve same and further agree to indemnify, defend, and hold Defendants and the Releasees harmless for and from any and all such claims, liens, rights, interests, or subrogated interests that may be asserted against them by, through, or under Plaintiff or that may be asserted against them by any person or entity who has, or may be entitled to assert, a claim or lien against, or right, interest, or subrogated interest in, the proceeds of this settlement for services rendered to or on behalf of the Plaintiff.

5. **No Admission of Liability.** Defendants deny any and all liability alleged in the Action and/or arising from or relating to the Project and further state that the payment of the Settlement Proceeds was made solely in compromise and settlement of disputed claims, and such payment is not to be regarded as admission of liability or insurance coverage or a confession of judgment by Defendants or their insurers. Neither payment nor any action taken pursuant to this Agreement shall be considered or construed as an admission or establishment of wrongdoing or liability on the part of Defendants, which expressly deny any wrongdoing or liability.

6. **Non-disparagement.** The Settling Parties agree that, unless required to do so by legal process, they and their respective officers, managing members, and directors will not make any disparaging statements or representations, either directly or indirectly, whether orally or in writing, by word or gesture, to any person whatsoever, about the other Party or any person or entity affiliated with the other Party. Nothing herein will prevent any Party from stating that the Settling Parties have “amicably resolved all differences.”

7. **Representations and Warranties.** Each of the Settling Parties hereby represents and warrants that it has been represented by counsel in connection with the negotiation of this Agreement; that it has consulted with respective counsel in regard to the terms and legal meaning of this Agreement; that it is legally authorized to enter into this Agreement; that the Agreement is enforceable against it according to its terms; that neither of the Settling Parties has assigned any claims and/or rights and/or obligations set forth in this Agreement and intended to be addressed and released hereunder to any other person and/or entity; and that it has entered into this Agreement freely and voluntarily and without coercion or undue influence.

8. **Interpretation.** Wherever possible, each portion of this Agreement shall be interpreted in such a manner as to be valid, effective and enforceable under applicable law against the Settling Parties. The Settling Parties agree that this Agreement was jointly drafted and negotiated by and between them, and the terms and conditions of this Agreement shall not be more strictly construed against either of the Settling Parties as the drafter thereof.

9. **No Oral Modification.** No change, modification, and/or waiver of any provision of this Agreement shall be valid, enforceable and/or binding upon either of the Settling Parties unless it is in writing and signed by both Settling Parties to this Agreement. This provision cannot be waived by subsequent oral agreement and/or the actions and/or conduct and/or omissions of either of the Settling Parties hereto.

10. **Execution.** This Agreement may be executed in separate counterparts, each of which shall be deemed an original document. A counterpart of this Agreement transmitted by either of the Settling Parties to the other by facsimile transmission, or by e-mail, and bearing the signature of such Settling Party shall be deemed an original hereof and may be relied upon by the recipient as duly executed and effective notwithstanding the fact that the recipient did not receive an original copy of the transmitter's signature.

11. **Governing Law.** This Agreement shall be deemed to have been executed and delivered within the State of Florida, and the rights and obligations of the Settling Parties hereunder shall be governed, construed and enforced in accordance with the substantive and procedural laws of the State of Florida. The Settling Parties further acknowledge and agree that any enforcement of this Agreement shall take place in Flagler County, Florida.

12. **Binding Effect/Authority.** The signatories to this Agreement represent and warrant that each has been fully authorized to execute this Agreement and that each has the actual authority to bind each party for which they are signing to the terms and conditions of this Agreement. This Agreement shall be binding upon and enforceable against the Settling Parties hereto, their owners, successors and assigns, including but not limited to the Plaintiff's Board of Commissioners and any individual Commissioner.

13. **Construction.** In giving meaning to this Agreement, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

14. **Heading.** Each of the Settling Parties agrees that the section headings contained herein are included for convenience only and are not to be deemed part of this Agreement.

15. **Severability.** Should any term and/or condition of this Agreement be declared and/or determined by a court of competent jurisdiction to be illegal, invalid and/or unenforceable, the legality, validity and enforceability of the remaining term and/or conditions shall not be affected thereby, and the Agreement shall be construed as if the illegal, unenforceable and/or invalid term and/or condition is not included within the Agreement such that the remaining terms and conditions of the Agreement shall be enforceable in accordance with their intended effect.

16. **Entire Understanding.** This Agreement sets forth and contains the entire understanding of the Settling Parties with respect to the subject matter contained herein. The express, written terms and conditions of this Agreement shall not be contradicted, amended, and/or modified by any prior and/or contemporaneous oral promises, representations or agreements.

17. **Attorneys' Fees.** Should any of the Settling Parties employ an attorney to institute any proceeding, including, without limitation, a legal action, arbitration, administrative process or hearing, or any other proceeding, to enforce any of the provisions hereof, to protect its interest in

any matter arising under this Agreement, or to collect damages for the breach of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney's fees, costs, charges, and expenses expended or incurred therein from the other party.

18. Cooperation. The Settling Parties agree to cooperate fully to execute any supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms, conditions, and intent of this Agreement.

THE SIGNATORIES TO THIS AGREEMENT ACKNOWLEDGE THAT THEY HAVE READ THE FOREGOING AGREEMENT, FULLY UNDERSTAND ITS TERMS AND CONDITIONS, AND AGREE TO BE BOUND BY ALL OF ITS TERMS AND CONDITIONS. IN WITNESS WHEREOF, THE SETTLING PARTIES HAVE EXECUTED THIS AGREEMENT TO BE EFFECTIVE AS OF THE DATE SET FORTH BELOW.

FLAGLER COUNTY By: _____ Print Name: <u>Andrew S. Dance</u> Title: <u>Chair</u> Date: _____	UES PROFESSIONAL SOLUTIONS, LLC F/K/A UNIVERSAL ENGINEERING SCIENCES, LLC By: _____ Print Name: _____ Title: _____ Date: _____
BRIAN C. POHL, P.E., Individually By: _____ Date: _____	

SSM

EXHIBIT 1

IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER COUNTY, FLORIDA

CASE NO: 2021 CA 000130

FLAGLER COUNTY,

Plaintiff,

v.

UNIVERSAL ENGINEERING SCIENCES, LLC,
A Florida Limited Liability Company, and BRIAN
C. POHL, P.E.,

Defendants.

NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE

The Plaintiff, FLAGLER COUNTY, by and through its undersigned attorney, hereby files this Notice of Voluntary Dismissal with Prejudice of the above styled matter. The Parties having amicably resolved all differences.

RESPECTFULLY SUBMITTED on this ____ day of _____ 2025.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, has been furnished via eservice by the ePortal system on the ____ day of _____ 2025.

Abraham McKinnon, Esq.
Florida Bar No. 629081
595 W. Granada Blvd., Suite A
Ormond Beach, FL 32174
(386) 677-3431
Primary email:
lynn@mckinnonandmckinnonpa.com
Secondary email:
amckinnon@mckinnonandmckinnonpa.com
Attorney for Plaintiff

RESOLUTION 2025- __

**A RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF FLAGLER COUNTY,
FLORIDA, TO AMEND THE GENERAL FUND
BUDGET FOR FISCAL YEAR 2024-25 TO
RECOGNIZE AND APPROPRIATE
UNANTICIPATED REVENUE**

WHEREAS, it is necessary to increase the General Fund 1001 budget to recognize received unanticipated revenue; and

WHEREAS, Section 129.06, Florida Statutes, authorizes the Board of County Commissioners to amend, by resolution, its budget to provide for the receipt and expenditure of unanticipated funds.

NOW, THEREFORE, BE IT RESOLVED by the Flagler County Board of County Commissioners, that the General Fund is hereby amended, and the appropriation and expenditures identified in Exhibit A, attached hereto and incorporated herein, are approved. This Resolution shall take effect upon adoption.

ADOPTED in regular session, this 6th day of October 2025.

FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS

By: _____
Andrew S. Dance, Chair

ATTEST:

Tom Bexley, Clerk of the Circuit
Court and Comptroller

APPROVED AS TO FORM

Sean S. Moylan Digitally signed by Sean S. Moylan
Date: 2025.09.24 09:38:34 -04'00'

Sean S. Moylan, Deputy County
Attorney

BUDGET AMENDMENTS JOURNAL ENTRY PROOF

LN	ORG	OBJECT	PROJ	ORG DESCRIPTION	ACCOUNT DESCRIPTION	EFF DATE	PREV BUDGET	BUDGET CHANGE	AMENDED BUDGET	ERR
ACCOUNT					LINE DESCRIPTION					
YEAR-PER	JOURNAL	EFF-DATE	REF 1	REF 2	SRC JNL-DESC	ENTITY	AMEND			
2025	12	123775	09/24/2025	216	BUA SEARSB LD	1	2			
1	00113930	393001		General Fund	Lawsuit Settlements		.00	-125,000.00	-125,000.00	
	1001-001-0000-393000-390-00-000-000-393001-						09/24/2025			
2	00107001	531000		GenFund/Cnty Att	Professional Services		117,000.00	30,000.00	147,000.00	
	1001-107-0700-514300-510-51-000-000-531000-						09/24/2025			
3	00150000	598020		GenFund/Reserves	Reserve - Future Use		32,818,327.00	95,000.00	32,913,327.00	
	1001-150-5000-000000-590-00-000-000-598020-						09/24/2025			
** JOURNAL TOTAL								0.00		

BUDGET AMENDMENT JOURNAL ENTRY PROOF

CLERK: AGilbert

YEAR	PER	JNL	SRC	ACCOUNT	EFF	DATE	JNL	DESC	REF	1	REF	2	REF	3	ACCOUNT	DESC	T	OB	DEBIT	CREDIT
															LINE	DESC				
2025	12	123775																		
BUA	1001-001-0000-393000-390-00-000-000-393001-															Lawsuit Settlements	5			125,000.00
	09/24/2025 SEARSLD	216														T				
BUA	1001-107-0700-514300-510-51-000-000-531000-															Professional Services	5	30,000.00		
	09/24/2025 SEARSLD	216														T				
BUA	1001-150-5000-000000-590-00-000-000-598020-															Reserve - Future Use	5	95,000.00		
	09/24/2025 SEARSLD	216														T				
																			.00	.00
BUA	1001-000-0000-000000-000-00-000-000-241000-															Appropriations				125,000.00
	09/24/2025 SEARSLD	216																		
BUA	1001-000-0000-000000-000-00-000-000-171000-															Estimated Revenues		125,000.00		
	09/24/2025 SEARSLD	216																		
																			125,000.00	125,000.00
																			125,000.00	125,000.00
																			125,000.00	125,000.00

BUDGET AMENDMENT JOURNAL ENTRY PROOF

FUND	ACCOUNT	YEAR	PER	JNL	EFF DATE	ACCOUNT DESCRIPTION	DEBIT	CREDIT
1001	General Fund	2025	12	123775	09/24/2025			
	1001-000-0000-0000000-000-00-000-000-171000-					Estimated Revenues	125,000.00	
	1001-000-0000-0000000-000-00-000-000-241000-					Appropriations		125,000.00
FUND TOTAL							125,000.00	125,000.00

** END OF REPORT - Generated by Amanda Gilbert **