

# **CITY OF STARKE REQUEST FOR PROPOSALS**

## **REDISTRICTING CONSULTING SERVICES**



**RESPONSES ARE DUE BY OCTOBER 28, 2021, 3:00 PM (EST)**

**CONTACT: JIMMY V. CROSBY, JR., CITY CLERK  
C/O LISA TERRY, DEPUTY CITY CLERK  
CITY OF STARKE, CITY HALL  
209 NORTH THOMPSON STREET  
STARKE, FLORIDA 32091  
EMAIL: [LTERRY@CITYOFSTARKE.ORG](mailto:LTERRY@CITYOFSTARKE.ORG)**

The City of Starke, Florida is seeking to obtain Proposals from qualified firms to provide REDISTRICTING CONSULTING SERVICES to the City of Starke “(City)” in full accordance with the terms, conditions and specifications contained in this Request for Proposals (RFP).

Sealed Proposals will be received at the City of Starke City Hall 209 North Thompson Street, Starke, Florida, 32091, until October 28, 2021, 3:00 PM local time, at which time they will be publicly opened. All Proposers or their representatives are invited to be present. Proposals shall be delivered and addressed to, City of Starke, Attn: Jimmy V. Crosby, Jr., City Clerk, c/o Lisa Terry, Deputy City Clerk, 209 North Thompson Street, Starke, Florida 32091 and shall be labeled “REDISTRICTING CONSULTING SERVICES”.

Any Proposer who wishes his/her proposal to be considered is responsible for making certain that his/her proposal is received in the City by the proper time. No oral, telegraphic, electronic, facsimile, or telephonic Proposals or modifications will be considered unless specified. Proposals received after the scheduled Proposal Submittal Deadline will not be considered. It is the responsibility of the Proposer to see that any proposal submitted shall have sufficient time to be received by the City before the Proposal Submittal Deadline. Late Proposals will be returned to the Proposer unopened.

Proposers must submit ONE (1) Original AND TEN (10) Photocopies of your Proposal, ONE (1) electronic copy (on a USB thumb drive) and one (1) sealed Fee Proposal (to submit in a separate sealed envelope) with your submission. The proposal shall be signed by a representative who is authorized to contractually bind the Proposer.

**[ ] PRE-PROPOSAL CONFERENCE IS SCHEDULED – Not applicable.**

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## ANTICIPATED SCHEDULE OF EVENTS

The tentative schedule of events, relative to the proposal shall be as follows:

<u>Event</u>	<u>Date (on or before)</u>
Public Release/Posting of RFP	October 6, 2021
Advertisement of RFP	October 14, 2021
Pre-proposal Meeting/Site Visit	N/A
Last day for questions/clarification	October 21, 2021
Last day for addendum to be posted	October 25, 2021
Proposal Submission deadline	October 28, 2021 @ 3:00 P.M. (E.S.T.)
Evaluation Committee Meeting	Within 1-2 weeks following Proposal Submission Deadline (publicly noticed)
Top-ranked firm recommended to City Commission	First available meeting following Evaluation Committee Meeting (publicly noticed)

*Note: All times are subject to change at the City's discretion.*

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## **SECTION 1 - INTRODUCTION AND INFORMATION**

### **1.1 BACKGROUND:**

The City of Starke ("City") was incorporated in 1850 and is located in the northeast region of Florida, in Bradford County. The City of Starke is known for its beautiful fresh water lakes and strawberries. It is 25 miles north of the City of Gainesville (home to the University of Florida) and 60 miles southwest of Jacksonville, Florida. The city has a small-town residential atmosphere that overflows with hospitality, historical landmarks, and managed wildlife areas. The current population is estimated at approximately 5,400 people.

Although the City's charter calls for the City's five city commissioners to be elected at-large in staggered quadrennial elections, in 1989 the City's election format was found to be in violation of the federal Voting Rights Act<sup>1</sup>. This finding resulted in the Court adopting a Remedial Action Plan establishing five defined single-member districts from which the City's five commissioners would be elected. Those five defined single-member districts remain unaltered since their establishment in 1989. A copy of the Final Order on Remedial Action Plan is attached to and included with this RFP.

1.2 **INFORMATION/CLARIFICATION:** For information concerning this RFP contact **Jimmy V. Crosby, Jr., City Clerk, c/o Lisa Terry, Deputy City Clerk at LTerry@CityofStarke.org**. Such contact is to be for clarification purposes only. Changes, if any, to the technical specifications or proposal procedures will only be transmitted by written addendum acknowledged by Proposer.

1.2.1 **ADDENDA, CHANGES OR INTERPRETATIONS DURING PROPOSAL:** Any inquiry or request for interpretation received prior to the last day for questions/clarification will be given consideration. Changes or interpretations may only be made by a written document in the form of an addendum and, if desired, will be mailed or sent by available means to all known prospective Proposers no later than seven (7) days prior to the established Proposal Submission deadline. Each prospective Proposer shall acknowledge receipt of such addenda in the space provided in the proposal form. In case any Proposer fails to acknowledge receipt of such addenda or addendum, his/her proposal will nevertheless be considered as though it had been received and acknowledged and the submission of his proposal will constitute acknowledgment of the receipt of same. All addenda are a part of the contract documents and each Proposer will be bound by such addenda, whether or not received by him/her. It is the responsibility of each prospective Proposer to verify that he/she has received all addenda issued before Proposals are opened. **No verbal interpretations may be relied upon.**

1.3 **QUESTIONS:** Questions should be sent to **Jimmy V. Crosby, City Clerk, c/o Lisa Terry, Deputy City Clerk by email at LTerry@CityofStarke.org**.

1.4 **INITIAL CONTRACT PERIOD AND CONTRACT RENEWAL:** Not applicable

1.5 **ELIGIBILITY:** To be eligible to respond to this RFP, the proposing firm or principals must demonstrate that they, or the principals assigned to the project, have successfully provided services similar magnitude to those specified in the Scope of Services section of this RFP to at least one city similar in size and complexity to the City of Starke or can demonstrate they have the experience with private sector clients of similar size and complexity to the City of Starke and the managerial and financial ability to successfully

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<sup>1</sup> Bradford County Branch of the NAACP, et al. v. City of Starke, Florida, et al (Case no. 86-5-CIV-J-12), United States District Court for the Middle District of Florida, Final Order on Remedial Election Plan.

perform the services. The proposing firm shall also demonstrate the following:

- The Consultants shall have been continuously engaged in the business of providing Redistricting Consulting Services to local governments for at least five (5) years.
- The Consultant has no conflict of interest with regard to any other work performed by the firm for the City of Starke.

1.6 PROPOSAL SECURITY: Not Applicable

1.7 INSURANCE AND PERFORMANCE AND PAYMENT BONDS: Failure of the successful Proposer to execute a Contract, file any required Performance and Payment Bonds, and furnish evidence of appropriate insurance coverage's (including evidence of workers compensation coverage if required by this RFP) within thirty (30) days after written notice of award has been given, shall be just cause for the annulment of the award and the forfeiture of the RFP security to the City, which forfeiture shall be considered, not as a penalty, but as liquidation of damages sustained.

1.8 INSURANCE: The successful proposer shall not commence operations; construction and/or installation of improvements pursuant to the terms of this RFP and the attached Contract, until certification or proof of the insurance requirements set forth within the attached contract have been received and approved by the City Clerk in consultation with the City Attorney Any questions as to the intent of meaning of any part of the insurance requirements set out in the attached contract should be directed to the City Clerk.

## ***SECTION 2 - STANDARD TERMS AND GENERAL CONDITIONS***

2.1 SUBMISSION AND RECEIPT OF PROPOSALS: To receive consideration, proposals shall be submitted in accordance with this RFP. Any erasures or corrections on the proposal must be made in ink and initialed by Proposer in ink. All information submitted by the Proposer shall be printed, typewritten or filled in with pen and ink. Proposals shall be signed in ink. Separate proposals must be submitted for each RFP issued by the City in separate sealed envelopes properly marked. When a particular RFP requires multiple copies they may be included in a single envelope or package, properly sealed and identified. Proposers shall use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the proposal to be rejected as non-responsive.

2.1.1 All copies of the proposals must contain an original manual signature of the authorized representative of the Proposer. Proposals shall contain an acknowledgment of receipt of all Addenda. The address, e-mail and telephone number for communications regarding the Proposal must be shown.

2.1.1.1 Proposals by legal entities such as corporations or limited liability companies must be executed in the name of the entity by the President, Manager, or other appropriate official of the entity accompanied by evidence of authority to sign and bind the entity. The entity's address and state of organization must be shown below the signature.

2.1.1.2 Proposals by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signatures.

2.1.2 All Proposals received from Proposers in response to the Request for Proposal will become the property of the City of Starke and will not be returned to the Proposers. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City.

2.2 QUALIFICATIONS STATEMENT: Each Proposer shall complete the Qualifications Statement and submit the same with his Proposal. Failure to submit the Qualifications Statement and the documents required there under with the Proposal may constitute grounds for rejection of the Proposal.

[ X ] The City of Starke reserves the right to make a pre-award inspection of the Proposer's facilities and equipment prior to award of the Contract.

2.3 PROPOSERS' COSTS: The City shall not be liable for any costs incurred by Proposers in responding to this RFP.

2.4 PROPOSAL ACCEPTANCE: Proposer warrants by virtue of submitting its Proposal that the Proposal and the prices quoted in the Proposal will be firm for acceptance by the City for a period of 90 days from the date of RFP opening unless otherwise stated in the RFP.

2.5 NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES: Proposer agrees and understands that, unless specifically and expressly provided for herein, the Contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services at its sole option.

2.6 MISTAKES: Proposers are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions, and special conditions pertaining to the RFP. Failure of the Proposer to examine all pertinent documents shall not entitle him to any relief from the conditions imposed in the contract and may lead to rejection of a proposal.

2.7 REJECTION OF PROPOSALS: The City reserves the right to accept or reject any or all proposals, part of proposals, and to waive minor irregularities or variations to specifications contained in proposals, and minor irregularities in the proposal process.

2.8 RESOLUTION OF PROTESTED SOLICITATIONS AND PROPOSED AWARDS: All protests of this solicitation shall be filed and processed as set forth in Section V of the City's Purchasing Policy.

2.9 LEGAL REQUIREMENTS:

2.9.1 Applicable provisions of all federal and state laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) attaching a proposal response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise. Lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.

2.9.2 The Legal Advertisement, Notice of Request for Proposal, Standard Terms and General Conditions, Special Conditions, Specifications, Instructions to Proposers, Exhibits, Addenda and any other pertinent document form a part of this RFP and by reference are made a part of any response to this RFP.

2.9.3 Pursuant to Section 838.32(1) Florida Statutes, it is unlawful for a bidder or proposer to knowingly and intentionally influence or attempt to influence any competitive solicitation of the City of Starke.

2.10 BACKGROUND CHECKS: The City reserves the right to require background checks of any personnel assigned by the successful proposer to perform services under this contract.

The following criteria will be applied to determine if the personnel are qualified pursuant to said background checks (if left blank, no background checks will be required): **The specification (see Section 5) contains specific background check standards and requirements.**

2.11 SPECIAL CONDITIONS: Any and all Special Conditions contained in this RFP that may be in variance or conflict with the General Conditions shall have precedence over the General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety.

2.12 PROHIBITION OF INTEREST: No contract will be awarded to a Proposer who has City elected officials, officers or employees affiliated with it, unless the Proposer has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Proposers must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Proposer and removal of the Proposer from the City's Bidder's List and prohibition from engaging in any business with the City.

2.13 CONFLICT OF INTEREST: The Proposer covenants that they presently have no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The Proposer further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in the contract.

2.13.1 The PROPOSER represents itself to be an independent firm offering such services to the general public and shall not represent itself or its employees to be employees of the City of Starke. Therefore, the Proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, and other expenses, and agrees to indemnify, save, and hold the City of Starke, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

2.14 NO CONTINGENT FEE: Proposer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Proposer to solicit or secure the Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Proposer, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making the Contract. For the breach or violation of this provision, the City shall have the right to terminate the Contract without liability at its discretion.

2.15 PUBLIC RECORDS / CONFIDENTIAL INFORMATION: Florida law provides that municipal records shall at all times be open for personal inspection by any person, unless otherwise exempt. Information and materials received by the City in connection with a Proposer's response shall be deemed to be public records subject to public inspection. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Section 119.07, F.S. provides an exemption from public records law for sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

**THE CONTRACTOR SHALL COMPLY WITH THE REQUIREMENTS OF CHAPTER 119, FLORIDA STATUTES WITH RESPECT TO ALL PUBLIC RECORDS.**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**



**CITY CLERK  
209 NORTH THOMPSON STREET  
STARKE, FL 32091  
(904) 368-1301  
LTERRY@CITYOFSTARKE.ORG**

SPECIFICALLY, THE CONTRACTOR SHALL:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the contractor or keep and maintain public records required by the City to perform the service. If the contractor transfers all public records to the City upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
5. REQUEST FOR RECORDS; NONCOMPLIANCE.—
  - (a) A request to inspect or copy public records relating to a City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the contractor of the request, and the contractor must provide the records to the City or allow the records to be inspected or copied within a reasonable time.
  - (b) If a contractor does not comply with the City's request for records, the City shall enforce the contract provisions in accordance with the contract.
  - (c) A contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. 119.10.

2.16 RESERVED

2.17 PUBLIC ENTITY CRIMES INFORMATION STATEMENT: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not

submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a Proposer, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

2.18 NON-COLLUSIVE AFFIDAVIT: Each Proposer shall complete the Non-Collusive Affidavit Form and shall submit the form with the Proposal. The City considers the failure of the Proposer to submit this document to be a major irregularity and may be cause for rejection of the Proposal.

2.19 SUB-CONTRACTORS: If the Proposer proposes to use subcontractors in the course of providing these services to the City, this information shall be a part of the RFP response. Such information shall be subject to review, acceptance and approval of the City, prior to any Contract award. The City reserves the right to approve or disapprove of any subcontractor candidate in its best interest.

2.20 CONE OF SILENCE: A Cone of Silence shall apply as follows:

2.20.1 A Cone of Silence shall be in effect during a Competitive Solicitation beginning upon the advertisement for requests for proposals, requests for qualifications and competitive bids. The Cone of Silence shall terminate at the time the City Commission makes final award of a bid or gives final approval of a contract or contract amendment, rejects all bids or responses to the Competitive Solicitation, or takes other action which ends the Competitive Solicitation. The Cone of Silence shall continue through the negotiation phase for requests for proposals and requests for qualifications and shall not end until the Commission gives final approval of the contract.

2.20.2 Any person or entity that seeks a contract, contract amendment, award, recommendation, or approval related to a Competitive Solicitation or that is subject to being evaluated or having its response evaluated in connection with a Competitive Solicitation, including a person or entity's representative shall not have any communication with any City Commissioner, the City Manager, the City Clerk, and their respective support staff or any person or group of persons appointed or designated by the City Commission, the City Manager, or the City Clerk to evaluate, select, or make a recommendation to the City Commission regarding a Competitive Solicitation.

2.20.3 The Cone of Silence shall not apply to written communications with legal counsel for the City or the Deputy City Clerk for the City.

2.20.4 Any action in violation of this section shall be cause for disqualification of the bid or the proposal. The determination of a violation shall be made by the City Commission.

2.21 PERFORMANCE AND PAYMENT BONDS/IRREVOCABLE LETTER OF CREDIT:  
(No bond required if left blank).

2.22 RESERVED

2.23 RESERVED

2.24 CONTRACT: A draft copy of the Contract is made a part of this RFP. The Contract is only a draft copy. The final Contract shall include any additional terms and conditions as approved by the City Manager.

2.25 DRUG FREE WORKPLACE: Drug-free workplace—In accordance with Florida Statute 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two (2) or more proposals which are equal with respect to price, quality, and service are received by the City for the procurement of commodities or contractual services, a proposal received from a business that completes the attached DFW form certifying that it is a DFW shall be given preference in the award process.

2.26 COMPLIANCE WITH LAWS:

The selected firm, its officers, agents, employees, and contractors, shall abide by and comply with all federal, state, and local laws. It is agreed and understood that if City calls the attention of Contractor to any such violations on the part of the Contractor, its officers, agents, employees, contractors, then contractor shall immediately desist from and correct such violation. If contractor is in violation of any law, contractor shall be solely responsible for coming into compliance with such law and shall be solely responsible for the payment of any fine charged for such violation.

2.27 PROPOSER'S REPRESENTATION:

By virtue of its submission of this response to the RFP, proposer represents that it has reviewed all information which it has reason to believe is relevant to the making of this proposal, including any necessary site inspections and field inspections, measurements and visits and that there is no information which it does not possess which it believes is necessary to make a fully informed and accurate proposal.

2.28 ADDITIONAL PROVISIONS:

2.28.1 Correction on proposals.

- (a) Mathematical errors - Errors in extension of unit prices or mathematical calculations may be corrected by the City Clerk or designee prior to award. The unit prices shall not be changed.
- (b) A proposer shall be permitted to correct clerical, non-judgmental mistakes of fact in their proposal by the City Clerk through a written directive.
- (c) Voluntary reduction of price—The City may accept a voluntary reduction from a proposer after proposals are opened, if such reduction is not conditioned on, nor results in, the modification or deletion of any condition contained in the RFP. A voluntary reduction may NOT be used to ascertain the lowest responsive fee proposal submitted with the proposals.

#### 2.28.2 Cancellation of proposals.

- (a) Any time prior to the proposal opening date and time, the City may cancel or postpone the opening of proposals or cancel the RFP in its entirety.
- (b) After proposals are open, any or all proposals may be rejected by the City.

#### 2.28.3 Withdrawal of proposals.

- (a) Any proposer may voluntarily withdraw or amend their proposal at any time prior to the opening of proposals by providing written notice to the City. Amendments should be forwarded to the City Clerk, sealed and identified.
- (b) After proposals are opened, vendors shall not be allowed to withdraw a proposal in less than ninety (90) days, or a specific time period stated in the RFP with the following exception—the proposal is so outrageous as to be a prima facie evidence of a mistake, but a mistake that cannot be corrected by correction of mathematical computation.

- 2.29 CANCELLATION FOR UNAPPROPRIATED FUNDS: The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in the current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

### **SECTION 3 – CRITERIA FOR AWARD**

- 3.1 CRITERIA FOR AWARD: The following criteria shall be used to evaluate the proposals. With the weight of each criterion to be determined by the City:

The proposed evaluation is an initial process designed to elicit a short list of Proposers; with the contract awarded not necessarily to the Proposer of least cost, but rather to the Proposer with the best combination of attributes (i.e., qualifications and experience, technical approach, and cost), based upon the evaluation factors specifically established for this RFP. The establishment, application and interpretation of the above evaluation criteria shall be solely within the discretion of the City.

Proposers should provide all information outlined in the Evaluation Factors to be considered responsive. Proposals will be evaluated based on the responsiveness of the Proposer's information to the Evaluation Factors which will demonstrate the Proposer's understanding of the Evaluation Factors and capacity to perform the required services of this Request for Proposals. The maximum points that shall be awarded for each of the Evaluation Factors are detailed and described below.

The following factors will be utilized by the City to evaluate each submission received. Award of points will be based on the documentation that the proposer submits within the submission.

Each Evaluation Factor will be rated and assigned points using the scoring guide below.

Scoring Guide:

0% - No Response  
 50% - Marginal  
 70% - Acceptable  
 85% - Exceeds Acceptable  
 100% - Outstanding in all Respects

<b>Evaluation Criteria</b>	<b>Maximum Points</b>
<b>A) Technical Proposal</b>	
<b>1. Qualifications</b>	
a) Firm Qualifications. See Section 5.3.3 (b)	<b>25</b>
b) Management, Supervisory and Staff Experience. See Section 5.3.3.(c)	<b>25</b>
<b>2. Methodology including Technical Approach and Understanding of the Scope of Services.</b> See Section 5.3.3(d)	<b>20</b>
<b>B) Pricing (To submit in a separate sealed envelope)</b>	
<b>1. Rates and Expenses.</b> See Section 5.4	<b>30</b>
<b>Total Maximum Points</b>	<b>100</b>

- 3.2 CONSIDERATION FOR AWARD/AWARD PROCEDURES: Evaluation of the Proposals will be conducted by an Evaluation Committee "(Committee)" of qualified City Staff, or other persons selected by the City Clerk or his designee. The Committee will evaluate all

responsive Proposals received from Proposers who meet or exceed the requirements contained in the RFP based upon the information and references contained in the Proposals as submitted. The Committee shall then short list no less than three (3) Proposals, assuming that three Proposals have been received, that it deems best satisfy the selection criteria contained in 3.0 above.

3.2.1 The Committee may conduct interviews with the shortlisted Proposers and rank the shortlisted Proposers in accordance with the selection criteria contained below.

3.2.2 The City may require visits to the Proposer's facilities to inspect record keeping procedures, staff, facilities and equipment as part of the evaluation process. The City reserves the right to award the contract to that Proposer who will best serve the interest of the City. The City reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all Proposals. The City also reserves the right to waive minor irregularities or variations to the specifications and in the proposal process.

3.2.3 The Evaluation Committee's findings and rankings will be reviewed by the City Commission which shall then make its determination. The recommendations of the Evaluation Committee shall be advisory only. The City Commission may adopt the ranking of the Committee and authorize a contract with the number one ranked firm or, use the evaluation criteria to re-rank the short listed firms and authorize a contract to the firm it ranks as number one or negotiations with the City Clerk with the assistance of the City Attorney depending upon which option is checked below.

☐ The Contract shall be in substantially the same form as attached hereto with any revisions approved by the City Attorney.

☒ Contract negotiations may be initiated with the highest ranked firm. Should the City Clerk or his designee, with the assistance of the City Attorney be unable to come to terms with the highest ranked firm, the next highest ranked firm will be contacted and negotiations begun with the next highest ranked firm. The final Contract must be approved by the City Commission.

3.2.4 The City Clerk may adopt the ranking of the Committee and negotiate a contract to the firm it ranks number one if the proposal received is under fifteen thousand Dollars (\$15,000.00). In such case the adopted ranking shall be final and the process for a final contract shall be undertaken and completed by the City. The final Contract must be approved by the City Commission.

3.2.5 After award of the contract, the Contractor shall be instructed to commence the

Work by written instruction in the form of a Purchase Order and a Notice to Proceed issued by the City Clerk. The first Notice to Proceed and Purchase Order will not be issued until Proposer/Contractor's submission to City of all required documents and after execution of the Contract by both parties following approval of the final Contract by the City Commission.

#### ***SECTION 4 - SPECIAL CONDITIONS***

4.1    **[   ]    TIME FOR COMPLETION/ LIQUIDATED DAMAGES:**

Because damages will be difficult to ascertain, liquidated damages of \$ per day will be deducted from the Contract sum for each regular work day the Contractor does not perform significant services. The Contractor will make every attempt to supply the awarded services within the time frame(s) requested. Liquidated damages are hereby fixed and agreed upon by the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of such delay, and both parties desiring to obviate any question or dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete the services within the applicable Time and Performance.

**[ X ]    COUNTY/STATE LICENSE REQUIREMENTS:**

Proposer shall be licensed and qualified to do business in its area of expertise and shall submit copies of all applicable licenses/certifications with their proposal. The successful Proposer will be required to maintain the appropriate licenses and certificates throughout the term of the contract.

Any proposal that is submitted by a Proposer who is not properly licensed/certified at the time the proposal is submitted may be rejected as non-responsive.

4.2    **INDEMNIFICATION**

Contractor shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional or negligent act of, or omission of, Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Contract including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action or demand, Contractor shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at

City's option, pay for an attorney selected by City Attorney to defend City. The provisions and obligations of this section shall survive the expiration or earlier termination of this contract. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Contractor under this Contract may be retained by City until all of City's claims for indemnification pursuant to this Contract have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by City. Nothing herein shall be deemed a waiver or limitation of any sovereign immunity provided by law or any limitation of the City's liability in any statute or as otherwise provided by law.

#### 4.3 INSURANCE (Applicable if box checked)

[X] To ensure the indemnification obligation contained above, Contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Contract (unless otherwise provided), the insurance coverages Article. Each insurance policy shall clearly identify the foregoing indemnification as insured.

[X] Such policy or policies shall be without any deductible amount unless otherwise noted in this Contract.

[X] Contractor shall pay all deductible amounts, if any.

[X] Contractor shall specifically protect City by naming the City of Starke and its Officers, Agents, Employees and Commission Members as additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage.

[X] Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided which shall contain minimum limits of one million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of two million Dollars (\$2,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- Premises and/or operations.
- Independent contractors.
- Products and/or Completed Operations for contracts.

Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification Contract.



Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

[X] Business Automobile Liability. Business Automobile Liability shall be provided with minimum limits of five hundred thousand Dollars (\$500,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Owned Vehicles, if applicable.
- Hired and Non-Owned Vehicles, if applicable.
- Employers' Non-Ownership, if applicable.

[X] Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws. In addition, the policy (s) must include:

Employers' Liability with a limit of Five Hundred Thousand Dollars (\$ 500,000.00) each accident.

[X] Errors and Omissions Liability/ Professional Liability. Errors and Omissions Liability insurance Policy shall be provided which contains minimum coverage limits of five hundred thousand (\$ 500,000.00) each occurrence

[X] Contractor shall furnish to the City Clerk a Certificate of Insurance or endorsements evidencing the insurance coverage specified by this Article within thirty (30) calendar days after notification of award of the Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract. Contractor's failure to provide to City the Certificates of Insurance or endorsements evidencing the insurance coverage within thirty (30) calendar days shall provide the basis for the termination of the Contract.

[X] The certificate provided for the City of Starke must cite the City of Starke as an additional insured. Thirty (30) days written notice must be provided to the City via Certified Mail in the event of cancellation. The City shall receive current copies of the certificate of insurance.

[X] Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Contractor is completed. All policies must be endorsed to

provide City with at least thirty (30) days' notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

[X] City reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Contract, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage. If Contractor uses a subcontractor, Contractor shall ensure that subcontractor names City as an additional insured.

#### 4.4 SCRUTINIZED COMPANIES:

- a) Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b) If this agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor , its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c) The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

### ***SECTION 5 – SPECIFICATIONS AND PROPOSAL REQUIREMENTS***

#### 5.1 PURPOSE:

The City of Starke, Florida, hereinafter referred to as the “City” desires to contract for Professional Services to provide redistricting consulting services.

## 5.2 SCOPE OF SERVICES:

### 5.2.1 Generally

5.2.1.1 The City of Starke, Florida, is seeking the services of a consultant, with experience in drawing boundaries on either the municipal, county, state or Federal levels. The consultant shall be responsible for drawing the districts as nearly as practicable, on an equal population basis by contiguous boundaries. The districts shall be designated 1 through 5.

5.2.1.2 Consultant shall develop three (3) draft redistricting plans (the “Plans”) for the five (5) City Commission districts and submit such Plans for consideration by the City Commission no later than March 4, 2022. These Plans must each be developed consistent with the process and the requirements stated below.

### 5.2.2 Development of Plans

5.2.2.1 Consultant shall develop the Plans in accordance with current, generally accepted methods and standards for the development of redistricting plans. The process utilized by Consultant shall be open and transparent. The City Commission districts proposed in each of the Plans must comply with all state and federal legal requirements, including but not limited to Section 2 of the Voting Rights Act, all relevant provisions of the United States Constitution, Article VIII, Section 1 of the Florida Constitution, and Chapter 166 of the Florida Statutes. At the time of submittal to the City Commission, Consultant must certify that each Plan meets the requirements stated in this section.

5.2.2.2 Consultant shall utilize all data required to develop the Plans, including but not limited to the 2020 decennial census data and voting pattern data from the Bradford County Supervisor of Elections. Consultant shall use GIS mapping software to develop maps and legal descriptions of proposed City Commission districts. Each Plan shall contain an analysis of bloc voting, vote dilution, and vote polarization with respect to the City Commission districts proposed in the plan.

5.2.2.3 By February 11, 2022, Consultant shall submit the Plans for initial review by the Offices of the City Clerk and the City Attorney for consistency with

the applicable geographical and legal requirements, and shall meet with the City Clerk and the City Attorney to receive comments and other feedback. Consultant shall update the Plans to address, as appropriate, the comments and feedback received, if any.

5.2.2.4 By March 4, 2022, Consultant shall submit the updated Plans for consideration by the City Commission. Consultant shall attend City Commission meeting(s) to receive comments and other feedback from the City Commission. Consultant shall update and/or modify the Plans to address, as appropriate, the comments and feedback received from the City Commission, if any, and shall thereafter resubmit the Plans until the City Commission approves a final Plan.

### 5.2.3 Community Outreach

5.2.3.1 To provide context and background for development of the Plans, and in consultation with the City Clerk, Consultant shall coordinate (in cooperation with the City Clerk), conduct, and participate in the meetings identified below. Such meetings may be conducted virtually if appropriate and/or if public health mandates would prevent them from safely occurring in person, as determined by the City Clerk.

5.2.3.1.1 Community Meetings: Two (2) community meetings in geographically and demographically diverse locations in the City of Starke to educate the public and obtain public input regarding the redistricting process.

5.2.3.1.2 Community Leader Meetings: One (1) meeting with a broad range of key community leaders in business and civic organizations to explain and discuss the redistricting process; determine those leaders' expectations and concerns and obtain their suggestions about the process; and develop a mailing list of people and organizations suggested by these key community leaders to notify and invite to participate in the process.

5.2.3.2 Consultant shall coordinate with the City Clerk for the preparation of public notices and media releases for community meetings. Each notice must include a physical and email address to which members of the public may send questions or provide input regarding the redistricting process. Consultant shall prepare illustrative and explanatory materials (e.g., maps, brochures, descriptions of the redistricting process) for community

meetings and for distribution to or other access by members of the public as reasonably requested by members of the public and/or the City Clerk.

5.2.3.3 Consultant shall preserve and document all material substantive input received from members of the public, whether or not such input was solicited by Consultant.

#### 5.2.4 Public Meetings

5.2.4.1 Consultant shall attend and participate in meetings with the City Commission as may be requested from time to time by the City Commission, which shall include, at a minimum:

5.2.4.1.1 An initial meeting to describe the redistricting process and legal requirements, the methodology Consultant will use to develop the Plans, and the Consultant's plan to conduct community outreach and receive public comment;

5.2.4.1.2 A meeting to present results of community outreach and input received from the public;

and

5.2.4.1.3 At least 15 days prior to the first reading of any ordinance, the consultant shall present, at a public meeting, at least three (3) redistricting plans for consideration by the City Commission. The consultant shall be present, and the public shall have the opportunity to be heard on the proposed districts submitted to the Commission for consideration. The City Commission shall make the final decision as to any redistricting mandated pursuant to this section and may either accept, reject, or modify the plans submitted to it for review. The redistricting shall be adopted by ordinance following approval by the United States District Court of the Middle District of Florida.

#### 5.2.5 Project Schedule and Progress Reporting

Completion of Community Outreach..... January 21, 2022

Submission of Plans for Initial Staff Review..... February 11, 2022

Submission of Three Plans for City Commission consideration.. March 4, 2022

City Commission approval of a Final Plan ..... March 18, 2022

From the date of contract execution until City Commission approval of a Final Plan, the Consultant shall provide the City Clerk and City Attorney with a weekly report on the project status, and, commencing January 10, 2022, shall provide updates at such shorter intervals requested by the City Clerk or City Attorney.

5.2.6 Payment Schedule

Except for the first payment, all payments are contingent upon completion of required services. Completion of the services shall be measured as fulfillment of all services required, including submission to and final acceptance by the City of the below deliverables, unless otherwise negotiated.

Execution of Agreement .....	20%
Submission of Initial Plans (per Section 3.3) .....	20%
Submission of Plans to City Commission (per Section 3.4) .....	30%
City Commission approval of a Final Plan .....	30%

5.2.7 Optional Additional Services

The following optional additional services (“Optional Services”) may be required of the Consultant, as may be requested by the City Commission on an as needed basis. Unless otherwise stated below or agreed by the City in the executed Work Authorization, all Optional Services shall be performed on a time and materials basis at the rates stated in the parties’ contract.

5.2.7.1 Expert Testimony: Consultant may be required to provide expert technical assistance to the City in legal action(s) relating to the redistricting process or a redistricting plan adopted by the City Commission. Such assistance shall include, without limitation, providing litigation support and expert testimony in state and/or federal court proceedings.

5.2.7.2 Additional Hourly Services: Consultant shall provide such additional services, such as attending additional community, community leader, or City Commission meetings, as may be requested by the City Commission or City Clerk.

5.2.7.3 Additional Redistricting Plans: For a fixed fee per additional plan (inclusive of all goods and services required to produce that plan), Consultant may be required to provide additional redistricting Plans (*i.e.*, more than the three Plans required by this Scope of Services) if requested by the City Commission. Consultant shall prepare any additional redistricting Plan(s)

in accordance with the Scope of Services outlined above and shall present such additional plan(s) at a public meeting before the City Commission. The fixed fee shall be per additional Plan and shall be inclusive of Consultant's participation at one (1) City Commission meeting in addition to the meetings required in the Scope of Services above.

### 5.3 **PROPOSAL REQUIREMENTS:**

#### 5.3.1 **Proposal Format**

Proposers should prepare their proposals using the following format. Proposers are encouraged to label/tab their submittal. In preparing proposals, Proposers should assume that the City has had no previous knowledge of their products, services or capabilities. Emphasis should be placed on clear, complete presentation of factual information. All sections of the proposal should be prepared and submitted in a straight forward, economical manner.

Proposers are not to make any reference to information they submitted in previous Bids/RFPs or quotes submitted to the City.

#### 5.3.2 **Submission of Proposals:** The following material is required to be submitted with your Proposal Package:

- a) Title Page  
Title Page showing the Request for Proposals' subject, the firm's name; the name, address and telephone number of a contact person; and the date of the proposal.
- b) Table of Contents
- c) Transmittal Letter  
A signed letter of transmittal briefly stating the Proposer's understanding of the work to be done, the commitment to perform and work within the time period, a statement of why the firm believes itself to be best qualified to perform the engagement and a statement that the proposal is a firm and irrevocable offer for ninety (90) days from the date of the Proposal opening.
- d) Detailed Proposal  
The detailed proposal should address all the points outlined in the Request for Proposal as outlined in Section 5-Specifications and Proposal Requirements.
- e) Executed copies of the Proposal Package—ALL QUESTIONS IN THE RFP TO BE ANSWERED. ALL FORMS TO BE COMPLETED.

### 5.3.3 Technical Proposal

a) **General Requirements**

The proposed evaluation is an initial process to elicit a short list of vendors; with the contract awarded not necessarily to the Vendor of least cost, but rather to the Vendor with the best combination of attributes (i.e., qualifications and experience, technical approach, and cost), based upon the evaluation factors specifically established for this RFP.

Vendors should provide all information outlined in the Evaluation Factors to be considered responsive. Proposals will be evaluated based on the responsiveness of the Vendor's information to the Evaluation Factors which will demonstrate the Vendor's understanding of the Evaluation Factors and capacity to perform the required services of this Request for Proposals. The maximum points that shall be awarded for each of the Evaluation Factors are detailed and described below.

As such, the substance of proposals will be evaluated based on what is deemed to be in the best interests of the City, including such factors as the Proposer's experience and expertise in providing services for municipalities, the clear and creative approach of the proposal, recommendations of entities for which the proposer has previously provided services, the persons assigned to the project by the Proposer, and total cost. Cost will not be the sole factor in evaluating proposals.

b) **Firm Qualifications (25 points):**

This section of the proposal should establish the ability of Proposer to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Proposer should:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office



closures, impending merger) that may impede Proposer's ability to complete the project.

- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) State any prior experience of the firm and/or its key personnel serving as a consultant for any governmental entity, whether inside or outside of Florida, with respect to legislative redistricting, including cases involving Sections 2 and 5 of the Voting Rights Act of 1965 and Florida's Fair Districting Amendment. With respect to such instances, please identify (1) the governmental entity, (2) the work performed, (3) the year(s) in which such work took place, (4) whether the redistricting plan on which the firm consulted was challenged in court, and, if so, the result of such challenge, and (5) any other information believed relevant.
- (5) Identify all legal cases concerning legislative redistricting (including cases involving Sections 2 and 5 of the Voting Rights Act of 1965 and Florida's Fair Districting Amendment) in which the firm and/or its key personnel were retained as an expert witness, regardless of whether only testimony was provided or the case ultimately went to trial. For all such cases, please provide all nonconfidential (or filed) expert reports drafted in an expert capacity by the firm and/or its key personnel. Please provide any other information you believe is relevant to this request.
- (6) Identify subcontractors by company name, address, contact person, telephone number and project function. Describe Proposer's experience working with each subcontractor.
- (7) Provide as a minimum four (4) references for the projects cited as related experience, and furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. Proposer may also supply references from other work not cited in this section as related experience. Please do not include the City of Starke or City of Starke employees as references.

c) **Management, Supervisory and Staff Experience (25 points):**

This section of the proposal should establish the method which will be used by the Proposer to manage the Scope of Work as well as identify key personnel assigned to the Scope of Work.

Proposer should:

- (1) Provide education, experience, and applicable professional credentials of project staff.
- (2) Furnish brief resumes (not more than one (1) page each) for the proposed Project Manager and other key personnel.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work.
- (4) Identify all legal cases concerning legislative redistricting in which key personnel (individually, or on behalf of any entity) have been an amicus curia, including cases involving Voting Rights Act of 1965 and Florida's Fair Districting Amendment. Please provide a copy of any court filings submitted by you or on your behalf, and please submit any other information you believe is relevant to this request.
- (5) Identify all academic papers authored, and talks/symposia or interviews in which key personnel have participated, and courses key personnel have taught, related to legislative redistricting, the Voting Rights Act of 1965, or Florida's Fair Districting Amendment. If available, provide copies of relevant publications, electronic links, or transcripts of talks/symposia/interviews and relevant syllabi. Please provide any other information believed to be relevant to this request.
- (6) Include a project organization chart which clearly delineates communication/reporting relationships among the project staff.
- (7) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of City of Starke.

d) **Methodology including Technical Approach and Understanding of the Scope of Services (20 points):**

Proposer shall provide a narrative which addresses the Scope of Work and shows Proposer's understanding of City of Starke's needs and requirements.

Proposer should:

- (1) Describe the approach to completing the tasks specified in the Scope of Services.

- (2) Include an implementation schedule with a final report delivery date and note key project milestones and timelines for deliverables. Identify any assumptions used in developing the schedule.
- (3) Include a statement indicating ability to begin work with minimum notice. Proposer may also propose procedural or technical enhancements/innovations to the Scope of Services which do not materially deviate from the objectives or required content of the Scope of services.

5.4 **Fee Proposal (To submit in a separate sealed envelope) (30 points):**

a) **Schedule of Compensation**

The Proposer shall complete the “Fee Proposal” included as Attachment A with the RFP. Proposers shall provide a total cost, including travel expenses, and “not to exceed” amount for the work described in the scope of work.

The proposals response with the lowest proposed grand total amount being offered will receive thirty (30) points. The second lowest proposed amount will be divided into the low proposed amount and multiplied by thirty (30) to arrive at a point total, and so on for the other proposals.

(Example is as follows: If the lowest proposed amount is:  
\$50,000, they will receive 30 points, if the second is:  
\$60,000 the calculation is as follows:  
 $\$50,000 / \$60,000 \times 30 = 25$  points)

**ATTACHMENT "A"**  
**FEE PROPOSAL**

Provide a total cost, including travel expenses, and "not to exceed" amount for the work described in the scope of work.

Redistricting Consulting Services as listed in Section 5.2.

**Total Project Cost not to exceed \$**\_\_\_\_\_

The undersigned certifies that he/she has the ability to sign and bind the firm or company to the services to be performed within the fees proposed.	
Signature:	
Title:	
Date Signed:	
Printed Name:	
Firm or Company:	
Email:	

## NON-COLLUSIVE AFFIDAVIT

State of \_\_\_\_\_)

)ss.

County of \_\_\_\_\_)

\_\_\_\_\_ being first duly sworn, deposes and says that:

- (1) He/she is the \_\_\_\_\_  
(Owner, Partner, Officer, Representative or Agent)  
of \_\_\_\_\_ the Proposer that has submitted the attached proposal;
- (2) He/she is fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
- (3) Such proposal is genuine and is not a collusive or sham proposal;
- (4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham proposal in connection with the work for which the attached proposal has been submitted; or to refrain from submitting a proposal in connection with such work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with and Proposer, firm or person to fix the price or prices in the attached proposal or of any other Proposer, or to fix an overhead, profit, or cost elements of the proposal price or the proposal price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;
- (5) The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

### **ACKNOWLEDGEMENT**

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
by \_\_\_\_\_, who is personally known to me or who has  
produced \_\_\_\_\_ as identification and who did (did not) take an  
oath.

WITNESS my hand and official seal

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp, or  
Type as Commissioned.)

## AUTHORITY TO EXECUTE PROPOSAL AND CONTRACT

A. If the Proposer is a corporation or limited liability company, attach to this page a certified copy of company resolutions of the board of directors or members (as applicable) of the company authorizing an officer or manager (as applicable) of the company to execute the Proposal and the Contract contained within this document on behalf of the company. The City would prefer the use of the attached sample Resolution.

B. A company to which a contract is to be awarded will be required to furnish certificates as to its legal existence.

### CERTIFIED RESOLUTION

I, \_\_\_\_\_ (Name), the person duly designated to maintain the records of the following company:

\_\_\_\_\_  
(company name),

a (*choose one*) ☐ corporation ☐ limited liability company organized and existing under the laws of the State of \_\_\_\_\_, do hereby certify that the following Resolution was unanimously adopted and passed by a quorum of the

(*choose one*)

☐ Board of Directors

☐ Members

☐ Managers

of the said company at a meeting held in accordance with law and the by-laws or operating agreement of the said company.

"IT IS HEREBY RESOLVED THAT \_\_\_\_\_ (signatory name) the duly elected \_\_\_\_\_ (title of authorized signatory) of \_\_\_\_\_ (company name) be and is hereby authorized to execute and submit a Proposal and Bid Bond, if such bond is required, to the City of Starke for \_\_\_\_\_ and such other instruments in writing as may be necessary on behalf of the said company; and that the Proposal, Bid Bond, and other such instruments signed by him/her shall be binding upon the said company as its own acts and deeds. The above named person designated to maintain the records of the company shall certify the names and signatures of those authorized to act by the foregoing resolution.

The City of Starke shall be fully protected in relying upon such certification of the secretary and shall be indemnified and saved harmless from any and all claims, demands, expenses, loss or damage resulting from or growing out of honoring, the signature of any person so certified or for refusing to honor any signature not so certified.

I further certify that the above resolution is in force and effect and has not been revised, revoked or rescinded.

I further certify that the following are the name, titles and official signatures of those persons authorized to act by the foregoing resolution.

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

Given under my hand and the Seal of the said company this \_\_\_\_\_ day of \_\_\_\_\_, 2021.  
(SEAL)

By: \_\_\_\_\_

the \_\_\_\_\_ (title) of \_\_\_\_\_ (company name)

NOTE: The above is a suggested form of the type of Company Resolution desired. Such form need not be followed explicitly, but the Certified Resolution submitted must clearly show to the satisfaction of the City of Starke that the person signing the Proposal and Bid Bond for the corporation has been properly empowered by the corporation to do so in its behalf.



## DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that

\_\_\_\_\_ does:  
(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under competitive solicitation a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under competitive solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

\_\_\_\_\_  
Bidder/Proposer's Signature

\_\_\_\_\_

## **PUBLIC ENTITY CRIME STATEMENT**

“A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a Proposer, supplier, sub-Proposer, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

I state that this Proposer complies with the above.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

## PROPOSER INFORMATION

Communications concerning this proposal shall be addressed to:

Company Name: \_\_\_\_\_

Social Security/Federal Tax I.D. No.: \_\_\_\_\_

Proposer's Name (Print): \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## ACKNOWLEDGEMENT OF ADDENDA

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**Instructions:** Complete Part I or Part II, Whichever Applies

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### Part I:

Proposer has examined copies of all the Contract Documents and of the following Addenda (receipt of all which is hereby acknowledged).

Addendum No: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Dated: \_\_\_\_\_

---

### Part II:

☐ No Addendum was received in connection with this RFP.

It is understood and agreed by Proposer that the City reserves the right to reject any and all proposals, to make awards on all items or any items according to the best interest of the City, and to waive any irregularities in the proposal or in the proposals received as a result of the RFP. It is also understood and agreed by the Proposer that by submitting a proposal, Proposer shall be deemed to understand and agree that no property interest or legal right of any kind shall be created at any point during the aforesaid evaluation/selection process until and unless a contract has been agreed to and signed by both parties.

\_\_\_\_\_  
Proposer's Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Proposer's Printed Name

## ACKNOWLEDGEMENT OF BUSINESS TYPE

This form must be signed in the presence of a Notary Public or other officer authorized to administer oaths and submitted with the proposal package on the specified proposal opening date. The undersigned proposer certifies that this proposal package is submitted in accordance with the specifications in its entirety and with full understanding of the conditions governing this proposal.

### BUSINESS ADDRESS OF PROPOSER:

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Federal ID. No. \_\_\_\_\_

### SIGNATURE OF PROPOSER

If an Individual: \_\_\_\_\_, doing business

\_\_\_\_\_  
Signature

as \_\_\_\_\_

If a Partnership: \_\_\_\_\_

by: \_\_\_\_\_,

\_\_\_\_\_  
General Partner Signature

If a Corporation: \_\_\_\_\_

\_\_\_\_\_  
Corporate Name

(a \_\_\_\_\_ Corporation)

by: \_\_\_\_\_

\_\_\_\_\_  
Signature

Title: \_\_\_\_\_

Attest: \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Corporate Secretary

**NOTARY PUBLIC:**

**STATE OF:** \_\_\_\_\_ **COUNTY OF:** \_\_\_\_\_

*The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2021, by  
\_\_\_\_\_  
\_\_\_\_\_ who is (who are) personally known to me or who has  
produced \_\_\_\_\_ as identification and who did (did not) take an oath.*

**NOTARY PUBLIC SIGNATURE:** \_\_\_\_\_

**NOTARY NAME, PRINTED, TYPED OR STAMPED:** \_\_\_\_\_

**Commission Number:** \_\_\_\_\_ **My Commission Expires:** \_\_\_\_\_

## REFERENCES

Provide specific references for at least four customers (preferably public entities), including customers served by the firm's nearest office to the City. They should be of similar size, complexity and magnitude to the City. **Please do not include the City of Starke or City of Starke employees as references.** Additional references may be provided by attachment.

Proposer: \_\_\_\_\_

1. Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Services provided: \_\_\_\_\_  
Years of Service: \_\_\_\_\_
2. Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Services provided: \_\_\_\_\_  
Years of Service: \_\_\_\_\_
3. Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Services provided: \_\_\_\_\_  
Years of Service: \_\_\_\_\_
4. Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Services provided: \_\_\_\_\_  
Years of Service: \_\_\_\_\_
5. Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Services provided: \_\_\_\_\_  
Years of Service: \_\_\_\_\_

## QUALIFICATIONS STATEMENT

The undersigned certifies under oath the truth and correctness of all statements and all answers to questions made hereinafter:

Name of Company: \_\_\_\_\_

Address: \_\_\_\_\_

Street: \_\_\_\_\_

City

State

Zip

Telephone No. (      ) \_\_\_\_\_ Fax No. (      ) \_\_\_\_\_

How many years has your organization been in business under its present name? \_\_\_\_\_ years

If Proposer is operating under Fictitious Name, submit evidence of compliance with Florida Fictitious Name

Statute: \_\_\_\_\_

Under what former name(s) has your business operated? \_\_\_\_\_

\_\_\_\_\_

At what address was that business located? \_\_\_\_\_

\_\_\_\_\_

Are you Certified? Yes ☐ No ☐ If Yes, ATTACH A COPY OF CERTIFICATION

Are you Licensed? Yes ☐ No ☐ If Yes, ATTACH A COPY OF LICENSE

Do you have the required insurance coverage's set forth in the RFP?

Yes ☐ No ☐ If Yes, ATTACH A COPY OF INSURANCE CERTIFICATES

Has your company or you personally ever declared bankruptcy?

Yes ☐ No ☐ If Yes, explain: \_\_\_\_\_

\_\_\_\_\_

Are you a sales representative ☐ distributor ☐ broker ☐ or manufacturer ☐ of the commodities/services that are the subject of this competitive solicitation?

Have you ever received a contract or a purchase order from the City of Starke or other governmental entity? Yes ☐ No ☐

If yes, explain (date, service/project, bid title, etc.) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have you ever received a complaint on a contract or bid awarded to you by any governmental entity?

Yes ☐ No ☐ If yes, explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Have you ever been debarred or suspended from doing business with any governmental entity?

Yes ☐ No ☐ If yes, explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **ADD W-9 FORM**



## BACKGROUND CHECK AFFIDAVIT

STATE OF FLORIDA )

COUNTY OF \_\_\_\_\_)

I, the undersigned, being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true:

1. I am over the age of 18 and am a resident of the State of Florida.
2. I am the \_\_\_\_\_ (title) of \_\_\_\_\_ and I certify that I have the authority to make the representations set forth within this Affidavit.
3. \_\_\_\_\_ intends to enter into an agreement with the City of Starke to provide the services detailed in RFP # \_\_\_\_\_.
4. The fulfillment of the Background Check requirement shall be conducted through State, National and Sexual Offender/Predator criminal history record databases.
5. I hereby certify I shall at my expense obtain a criminal background check for each employee, contractor, or subcontractor or subconsultant having access to city property prior to beginning the work and, depending on the contract's term, on an annual basis thereafter.
6. I further certify that I shall provide the contract administrator with a list of employees, contractors, or subcontractors or subconsultants who will have access to City property which verifies that a criminal background check has been conducted and the results thereof. A list of such employees is set forth on Exhibit "A", attached hereto and made a part hereof.
7. I also certify that based upon the result of the criminal background check, no employee, contractor, nor subcontractor or subconsultant who has been convicted of an offense or at the discretion of the City shall not be permitted to perform work under this contract in or on city property.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Name of officer taking acknowledgment)

**typed, printed or stamped**

\_\_\_\_\_  
(Title or rank)

My commission expires:

\_\_\_\_\_  
(Serial number, if any)

**Exhibit "A"**  
**List of Employees**

[illegible][illegible]

**NOTICE**  
**BEFORE SUBMITTING YOUR PROPOSAL, MAKE SURE YOU**

- \_\_\_\_\_ 1. Carefully read the SPECIFICATIONS and then properly fill out the relevant forms provided with this RFP.
- \_\_\_\_\_ 2. Fill out and sign the **PROPOSERS INFORMATION**.
- \_\_\_\_\_ 3. Fill out and sign the **NON-COLLUSIVE AFFIDAVIT** and have it properly notarized.
- \_\_\_\_\_ 4. Fill out and sign the **ACKNOWLEDGEMENT OF BUSINESS TYPE** and have it properly notarized.
- \_\_\_\_\_ 5. Sign the **CERTIFICATION PAGE (AUTHORITY TO EXECUTE PROPOSAL AND CONTRACT)**. Failure to do so will result in your Proposal being deemed non-responsive.
- \_\_\_\_\_ 6. Fill out the **QUALIFICATION STATEMENT**.
- \_\_\_\_\_ 7. **W-9**
- \_\_\_\_\_ 8. Fill out the **REFERENCES PAGE**.
- \_\_\_\_\_ 9. Sign the **VENDOR DRUG FREE WORKPLACE FORM**.
- \_\_\_\_\_ 10. Sign the **PUBLIC ENTITY CRIME STATEMENT**.
- \_\_\_\_\_ 11. Fill out the **BACKGROUND CHECK AFFIDAVIT**.
- \_\_\_\_\_ 12. Clearly mark the PROPOSAL NAME (***Redistricting Consulting Services***) on the outside of the envelope.
- \_\_\_\_\_ 13. Submit ONE (1) Original AND TEN (10) Photocopies of your Proposal, ONE (1) electronic copy (on a USB thumb drive) and one (1) sealed Fee Proposal (to submit in a separate sealed envelope) with your submission.
- \_\_\_\_\_ 14. Submit Bid Bond (if required)
- \_\_\_\_\_ 15. Make sure your Proposal is received by the City prior to the deadline. Late Proposals will not be considered.
- \_\_\_\_\_ 16. Include proof of insurance.
- \_\_\_\_\_ 17. Include copies of all Licenses and Certifications

**FAILURE TO PROVIDE THE REQUESTED ATTACHMENTS MAY RESULT IN YOUR  
PROPOSAL BEING DEEMED NON-RESPONSIVE.**

**EXHIBIT F**  
**PERFORMANCE BOND**

**SERVICES AGREEMENT**

THIS SERVICES AGREEMENT ("Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 202\_\_ ("Effective Date"), by and between the City of Starke, a Florida municipal corporation ("City"), and \_\_\_\_\_ ("Contractor") (individually, each a "Party," and collectively, the "Parties").

WITNESSETH:

WHEREAS, the City requested proposals pursuant to \_\_\_\_\_ (the "Procurement Document") for \_\_\_\_\_; and

WHEREAS, based upon the City's assessment of Contractor's proposal, the City selected the Contractor to provide the Services defined herein; and

WHEREAS, Contractor represents it has the experience and expertise to perform the Services set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

**1. Definitions.**

- a. "Agreement" means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.
- b. "City Confidential Information" means any City information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, and any other information designated in writing by the City as City Confidential Information.
- c. "Contractor Confidential Information" means any Contractor information designated as confidential and/or exempt by Florida's public records law, including information constituting a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information: (1) becoming public other than as a result of a disclosure by the City in breach of the Agreement; (2) becoming available to the City on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (3) known by the City prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (4) is developed by the City independently of any disclosures made by Contractor.
- d. "Contractor Personnel" means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.
- e. "Services" means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as described throughout this Agreement and as specifically described in Exhibit A ("Statement of Work") attached hereto and incorporated herein by reference. As used in this Agreement, Services shall include any component task, subtask, service, or function

inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone charges, copier usage, fax charges, travel, lodging, and per diem and all other costs required to perform Services except as otherwise specifically provided in this Agreement.

2. **Conditions Precedent.** This Agreement, and the Parties' rights and obligations herein, are contingent upon and subject to the Contractor securing and/or providing the performance security, if required in Section 3, and the insurance coverage(s) required in Section 13, within ten (10) days of the Effective Date. No Services shall be performed by the Contractor and the City shall not incur any obligations of any type until Contractor satisfies these conditions. Unless waived in writing by the City, in the event the Contractor fails to satisfy the conditions precedent within the time required herein, the Agreement shall be deemed not to have been entered into and shall be null and void.
3. **Services.**
  - a. **Services.** The City retains Contractor, and Contractor agrees to provide the Services. All Services shall be performed to the satisfaction of the City, and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.
  - b. **Services Requiring Prior Approval.** Contractor shall not commence work on any Services requiring prior written authorization in the Statement of Work without approval from \_\_\_\_\_.
  - c. **Additional Services.** From the Effective Date and for the duration of the project, the City may elect to have Contractor perform Services not specifically described in the Statement of Work attached hereto but are inextricably related to and inherently necessary for Contractor's complete provision of the Services ("Additional Services"), in which event Contractor shall perform such Additional Services for the compensation specified in the Statement of Work attached hereto. Contractor shall commence performing the applicable Additional Services promptly upon receipt of written approval as provided herein.
  - d. **De-scoping of Services.** The City reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the City. Upon issuance and receipt of the notification, the Contractor and the City shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.
  - e. **Independent Contractor Status and Compliance with the Immigration Reform and Control Act.** Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint-venturer of City. Contractor acknowledges it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et seq, and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach of the Agreement.
  - f. **Non-Exclusive Services.** This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the City reserves the right to contract with another provider for similar services as it determines necessary in its sole discretion.

- g. **Project Monitoring.** During the term of the Agreement, Contractor shall cooperate with the City, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

#### 4. Term of Agreement.

- a. **Initial Term.** The term of this Agreement shall commence on (select appropriate box):

☐ the Effective Date;

or

☐ the date of \_\_\_\_\_, 202\_\_.

and shall remain in full force and effect for \_\_\_\_\_ ☐ years / ☐ months / ☐ days, or until termination of the Agreement, whichever occurs first.

- b. **Term Extension.** (Select appropriate box.)

☐ The term of this Agreement may not be extended. All Services shall be completed by the expiration of the initial term as defined in 4.a.

or

☐ The Parties may extend the term of this Agreement for \_\_\_\_\_ additional \_\_\_\_\_ year period(s) pursuant to the same terms, conditions, and pricing set forth in the Agreement by mutually executing an amendment to this Agreement, as provided herein.

#### 5. Compensation and Method of Payment.

- a. **Services Fee.** As total compensation for the Services, the City shall pay the Contractor the sums as, provided in this Section 5 ("Services Fee"), pursuant to the terms and conditions as provided in this Agreement. It is acknowledged and agreed by Contractor this compensation constitutes a limitation upon City's obligation to compensate Contractor for such Services required by this Agreement, but does not constitute a limitation upon Contractor's obligation to perform all of the Services required by this Agreement. In no event will the Services Fee paid exceed the not-to-exceed sums set out in subsections 5.b. and 5.c., unless the Parties agree to increase this sum by written amendment as authorized in Section 21 of the Agreement.

- b. The City agrees to pay the Contractor the not-to-exceed sum of \$\_\_\_\_\_, for Services completed and accepted as provided in Section 15 herein if applicable, payable –

[INSERT APPROPRIATE OPTIONS AND DELETE THE REMAINING OPTIONS]

- i. ☐ in equal monthly payments of \$\_\_\_\_\_ beginning on the first day of the month commencing on \_\_\_\_\_, 202\_\_, upon submittal of an invoice as required herein.

OR

- ii. ☐ on a fixed-fee basis as set out in Exhibit C for the deliverables, such fee payable upon submittal of an invoice as required herein.

OR

- iii. ☐ at the following hourly rates (select appropriate box):

☐ the hourly rate of \$\_\_\_\_\_;

or

☐ the hourly rates set out in Exhibit attached hereto, upon submittal of an invoice as required herein.

OR

iv. (DESCRIBE PAYMENT TERMS)

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c. **Travel Expenses.** (Select appropriate box.)

☐ The Services Fee includes all travel, lodging and per diem expenses incurred by Contractor in performing the Services.

or

☐ The City shall reimburse the Contractor the sum of not-to-exceed \$\_\_\_\_\_ for the travel expenses incurred in accordance with Section 112.061, Florida Statutes, and/or City Travel Policy, and as approved in writing in advance by \_\_\_\_\_.

d. **Taxes.** Contractor acknowledges the City is not subject to any state or federal sales, use, transportation and certain excise taxes.

e. **Payments.** Contractor shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by City. Invoices shall be submitted to (select appropriate box):

☐ the designated person as set out in Section 18 herein;

☐ as provided in Exhibit C attached hereto.

For time and materials Services, all Contractor Personnel shall maintain logs of time worked, and each invoice shall state the date and number of hours worked for Services authorized to be billed on a time and materials basis. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act." The City may dispute any payments invoiced by Contractor in accordance with Section 218.76, Florida Statutes.

6. **Personnel.**

a. **Qualified Personnel.** Contractor agrees each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.

b. **Approval and Replacement of Personnel.** The City shall have the right to approve all Contractor Personnel assigned to provide the Services, which approval shall not be unreasonably withheld. Prior to commencing the Services, the Contractor shall provide at least ten (10) days written notice of the names and qualifications of the Contractor Personnel assigned to perform Services pursuant to the



Agreement. Thereafter, during the term of this Agreement, the Contractor shall promptly and as required by the City provide written notice of the names and qualifications of any additional Contractor Personnel assigned to perform Services. The City, on a reasonable basis, shall have the right to require the removal and replacement of any of the Contractor Personnel performing Services, at any time during the term of the Agreement. The City will notify Contractor in writing in the event the City requires such action. Contractor shall accomplish any such removal within forty-eight (48) hours after receipt of notice from the City and shall promptly replace such person with another person, acceptable to the City, with sufficient knowledge and expertise to perform the Services assigned to such individual in accordance with this Agreement. In situations where individual Contractor Personnel are prohibited by applicable law from providing Services, removal and replacement of such Contractor Personnel shall be immediate and not subject to such forty-eight (48) hour replacement timeframe and the provisions of Section 7.a.i shall apply if minimum required staffing is not maintained.

## 7. Termination.

### a. Contractor Default -- Provisions and Remedies of City.

- i. **Events of Default.** Any of the following shall constitute a "Contractor Event of Default" hereunder: (1) Contractor fails to maintain the staffing necessary to perform the Services as required in the Agreement, fails to perform the Services as specified in the Agreement, or fails to complete the Services within the completion dates as specified in the Agreement; (2) Contractor breaches Section 9 (Confidential Information); (3) Contractor fails to gain acceptance of a deliverable per Section 15, if applicable, for two (2) consecutive iterations; or (4) Contractor fails to perform or observe any of the other material provisions of this Agreement.
- ii. **Cure Provisions.** Upon the occurrence of a Contractor Event of Default as set out above, the City shall provide written notice of such Contractor Event of Default to Contractor ("Notice to Cure"), and Contractor shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the Contractor Event of Default described in the written notice.
- iii. **Termination for Cause by the City.** In the event Contractor fails to cure a Contractor Event of Default as authorized herein, or upon the occurrence of a Contractor Event of Default as specified in Section 7.a.i.(3), the City may terminate this Agreement in whole or in part, effective upon receipt by Contractor of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the City.

### b. City Default -- Provisions and Remedies of Contractor.

- i. **Events of Default.** Any of the following shall constitute a "City Event of Default" hereunder: (1) the City fails to make timely undisputed payments as described in this Agreement; (2) the City breaches Section 9 (Confidential Information); or (3) the City fails to perform any of the other material provisions of this Agreement.
- ii. **Cure Provisions.** Upon the occurrence of a City Event of Default as set out above, Contractor shall provide written notice of such City Event of Default to the City ("Notice to Cure"), and the City shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the City Event of Default described in the written notice.
- iii. **Termination for Cause by Contractor.** In the event the City fails to cure a City Event of Default

as authorized herein, Contractor may terminate this Agreement in whole or in part effective on receipt by the City of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the Contractor.

- c. **Termination for Convenience.** Notwithstanding any other provision herein, the City may terminate this Agreement, without cause, by giving thirty (30) days advance written notice to the Contractor of its election to terminate this Agreement pursuant to this provision.
8. **Time is of the Essence. Time is of the essence with respect to all provisions of this Agreement specifying a time for performance, including the Services as described in Exhibits attached hereto; provided, however, the foregoing shall not be construed to limit a Party's cure period allowed in the Agreement.**
9. **Confidential Information and Public Records.**
  - a. **City Confidential Information.** Contractor shall not disclose to any third party any City Confidential Information Contractor, through its Contractor Personnel, has access to or has received from the City pursuant to its performance of Services pursuant to the Agreement, unless approved in writing by the City Contract Manager. All such City Confidential Information will be held in trust and confidence from the date of disclosure by the City, and discussions involving such City Confidential Information shall be limited to Contractor Personnel as is necessary to complete the Services.
  - b. **Contractor Confidential Information.** All Contractor Confidential Information received by the City from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the City's staff and the City's subcontractors who require such information in the performance of this Agreement. The City acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the City, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges the City is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and any of the City's obligations under this Section may be superseded by its obligations under any requirements of said laws.
  - c. **Public Records.** Contractor shall generally comply with Florida's public records laws, and specifically Contractor shall:
    - i. Keep and maintain public records required by the City to perform and/or provide the service or services contracted for herein.
    - ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
    - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if Contractor does not transfer the records to the City.

- iv. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

**If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact Jimmy V. Crosby, Jr., City Clerk, City of Starke custodian of public records at 904-964-5027, JCrosby@CityofStarke.org, 209 North Thompson Street, Starke, FL 32091.**

- 10. **Audit.** Contractor shall retain all records relating to this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, City reserves the right to examine and/or audit such records.
- 11. **Compliance with Laws.** Contractor shall comply with all applicable federal, state, City and local laws, ordinances, rules and regulations in the performance of its obligations under this Agreement, including the procurement of permits and certificates where required, and including but not limited to laws related to Workers Compensation, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Minority Business Enterprise (MBE), occupational safety and health and the environment, equal employment opportunity, privacy of medical records and information, as applicable. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.
- 12. **Public Entities Crimes.** Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, as well as Florida Statute 287.135 regarding Scrutinized Companies, and represents to City that Contractor is qualified to transact business with public entities in Florida, and to enter into and fully perform this Agreement subject to the provisions state therein. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.
- 13. **Liability and Insurance.**
  - a. **Insurance.** Contractor shall comply with the insurance requirements set out in Exhibit B, attached hereto and incorporated herein by reference.
  - b. **Indemnification.** Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the City, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the City, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based

- thereon; except only such injury or damage as shall have been occasioned by the sole negligence of the City.
- c. **Liability.** Neither the City nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the City nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other not expressly authorized hereunder. The City shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by Contractor of its business, whether caused by Contractor's negligence or willful action or failure to act.
  - d. **Contractor's Taxes.** The City will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor's assets, or upon the City in connection with Services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.
14. **City's Funding.** The Agreement is not a general obligation of the City. It is understood neither this Agreement nor any representation by any City employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the City, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the City for any or all of this Agreement, the City shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The City agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the City.
15. **Acceptance of Services.** For all Services deliverables requiring City acceptance as provided in the Statement of Work, the City, through the City Commission or its designee, will have ten (10) calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to Contractor. If a deliverable is rejected, the written notice from the City will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have seven (7) calendar days to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the City, who will then have seven (7) calendar days to review and approve, or reject the deliverable(s); provided however, Contractor shall not be responsible for any delays in the overall project schedule resulting from the City's failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the City will accept the deliverable(s) in writing.
16. **Subcontracting/Assignment.**
- a. **Subcontracting.** Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the City, without the prior written consent of the City, which shall be determined by the City in its sole discretion.
  - b. **Assignment.** (Select appropriate box.)

- ☐ This Agreement, and any rights or obligations hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.

or

- ☐ This Agreement, and all rights or obligations hereunder, shall not be assigned, transferred, or delegated in whole or in part, including by acquisition of assets, merger, consolidation, dissolution, operation of law, change in effective control of the Contractor, or any other assignment, transfer, or delegation of rights or obligations, without the prior written consent of the City. The Contractor shall provide written notice to the City within fifteen (15) calendar days of any action or occurrence assigning the Agreement or any rights or obligations hereunder as described in this section. In the event the City does not consent to the assignment, as determined in its sole discretion, the purported assignment in violation of this section shall be null and void, and the City may elect to terminate this Agreement by providing written notice of its election to terminate pursuant to this provision upon fifteen (15) days' notice to Contractor.

17. **Survival.** The following provisions shall survive the expiration or termination of the Term of this Agreement: 7, 9, 10, 13 20, 23, and any other which by their nature would survive termination.
18. **Notices.** All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (3) sent via email and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

**To the Contractor:**

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**To the City:**

City of Starke  
Attn: City Manager  
209 North Thompson Street  
Starke, FL 32091

19. **Conflict of Interest.**

- a. The Contractor represents it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Services required hereunder, and no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- b. The Contractor shall promptly notify the City in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contractor may identify the prospective business association, interest or circumstance, the nature of work the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered

into by the Contractor. The City agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

20. **Right to Ownership.** All work created, originated and/or prepared by Contractor in performing Services pursuant to the Agreement, including plans, reports, maps and testing, and other documentation or improvements related thereto, to the extent such work, products, documentation, materials or information are described in or required by the Services (collectively, the "Work Product") shall be City's property when completed and accepted, if acceptance is required in this Agreement, and the City has made payment of the sums due therefore. The ideas, concepts, know-how or techniques developed during the course of this Agreement by the Contractor or jointly by Contractor and the City may be used by the City without obligation of notice or accounting to the Contractor. Any data, information or other materials furnished by the City for use by Contractor under this Agreement shall remain the sole property of the City.
21. **E-Verify.** As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.
- a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.
  - b. The City, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.
  - c. The City, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.
  - d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this Agreement by the City for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section.
  - e. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
22. **Amendment.** This Agreement may be amended by mutual written agreement of the Parties hereto.
23. **Severability.** The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement

impossible to perform.

24. **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Bradford County, Florida. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than the jurisdiction specified in this section. Each Party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.
25. **Costs of Legal Actions and Attorneys' Fees.** Except as otherwise set forth in this Agreement, including in any exhibits or addenda hereto, in any legal action between the parties hereto arising from this Agreement, an award for costs of litigation, including, but not limited to court costs and reasonable attorney fees, shall be made against the non-prevailing party to the prevailing party in such legal action, and such award shall including those fees incurred as a result of an appeal.
26. **Waiver.** No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.
27. **Due Authority.** Each Party to this Agreement represents and warrants: (1) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (2) each person executing this Agreement on behalf of the Party is authorized to do so; (3) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.
28. **No Third Party Beneficiary.** The Parties hereto acknowledge and agree there are no third party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third party beneficiaries hereto.
29. **Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

**(REMAINDER OF PAGE INTENTIONALLY BLANK)**  
**(SIGNATURE PAGE FOLLOWS)**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

[REPLACE THIS WITH CONTRACTOR NAME]

BY THE MAYOR OF THE CITY OF STARKE, FLORIDA

By \_\_\_\_\_, its \_\_\_\_\_

Honorable \_\_\_\_\_, Mayor

ATTEST, BY THE CLERK OF THE CITY COMMISSION  
OF THE CITY OF STARKE, FLORIDA:

\_\_\_\_\_  
Jimmy V. Crosby, Jr., City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Clay Martin, City Attorney



**EXHIBIT A**  
**STATEMENT OF WORK**

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(Document to be Provided Prior to Agreement Execution)

**EXHIBIT B**  
**INSURANCE REQUIREMENTS**

[INSERT INSURANCE REQUIREMENTS AFTER CONTRACT REVIEW]

**EXHIBIT C**  
**PAYMENT SCHEDULE**

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(Document to be Provided Prior to Agreement Execution)

**EXHIBIT D**  
**PAYMENT/INVOICES**

**PAYMENT/INVOICES:**

Contractor shall submit invoices for payment due as provided herein with such documentation as required by City of Starke and all payments shall be made in accordance with the requirements of Section 218.70 et. seq, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division – Accounts Payable  
City of Starke  
P.O. Drawer C  
Starke, FL 32091

Each invoice shall include, at a minimum, the Contractor's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Contractor also include the information shown in below. The City may dispute any payments invoiced by Contractor in accordance with Section 218.76, Florida Statutes and the provisions of this Agreement.

**INVOICE INFORMATION:**

**Contractor Information .....** Company name, mailing address, phone number, contact name and email address as provided on the PO

**Remit To .....** Billing address to which you are requesting payment be sent

**Invoice Date .....** Creation date of the invoice

**Invoice Number .....** Company tracking number

**Shipping Address .....** Address where goods and/or services were delivered

**Ordering Department .....** Name of ordering department, including name and phone number of contact person

**PO Number .....** Standard purchase order number

**Ship Date .....** Date the goods/services were sent/provided

**Quantity .....** Quantity of goods or services billed

**Description .....** Description of services or goods delivered

**Unit Price .....** Unit price for the quantity of goods/services delivered

**Line Total .....** Amount due by line item

**Invoice Total .....** Sum of all of the line totals for the invoice

**EXHIBIT E**  
**DISPUTE RESOLUTION IN MATTERS OF INVOICE PAYMENTS**

Payment of invoices for work performed for City of Starke (CITY) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes (the Local Government Prompt Payment Act).

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. City of Starke shall notify a vendor in writing, within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the vendor should undertake to correct the invoice and resubmit a proper invoice to the City, which steps shall include initially contacting the requesting department to validate Contractor's invoice conforms with the terms and conditions of the agreement. Once the requesting department determines Contractor's invoice conforms with the terms and conditions of the agreement, the vendor should resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
  - 1) Requesting department for this purpose is defined as the City department for whom the work is performed.
  - 2) Proper invoice for this purpose is defined as an invoice submitted for work performed where such work meets the terms and conditions of the agreement to the satisfaction of the City of Starke.
- B. Should a dispute result between the vendor and the City about payment of a payment request or an invoice then the vendor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by City of Starke, and shall not extend beyond sixty (60) days after the date on which the payment request or invoice was received by City of Starke.
- D. The Dispute Manager should investigate and ascertain whether the work, for which the payment request or invoice has been submitted, was performed to City of Starke's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the City of Starke representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days' timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The City Manager or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The City Manager or his or her designee will issue their decision in writing.
- E. City of Starke Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the City's favor interest charges begin to accrue fifteen (15) days after the final decision made by the City. Should the dispute be resolved in the vendor's favor the City shall pay interest as of the original date the payment was due.
- G. For any legal action to recover any fees due because of the application of Sections 218.70 et. seq., Florida Statutes, an award shall be made to the prevailing party to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal if the reason for the dispute is because the non-prevailing party held back any payment without having a reasonable basis to dispute the prevailing party's claim to those amounts.

**EXHIBIT F**  
**PERFORMANCE BOND**

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(Document to be Provided Prior to Agreement Execution if Required by Bid/Proposal Request)

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

FILED

JUN 29 9 41 AM '89  
CLERK U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

BRADFORD COUNTY BRANCH OF  
THE NAACP, ELIZABETH G. WALKER,  
JIMMIE L. SCOTT, CAROLYN B.  
SPOONER and MAURICE J. WHITE,  
on behalf of themselves and  
all others similarly situated,

JUN 30 1989

Plaintiffs,

vs.

CIVIL ACTION: 86-5-CIV-J-12

CITY OF STARKE, FLORIDA,  
MAYOR CHARLES SCHAFFER,  
CITY COMMISSIONERS BOBBY BIGGS,  
FERNON SILCOX, TRAVIS WOODS and  
JIMMY CROSBY, their successors  
and agents all in their official  
capacities,

Defendants.

FINAL ORDER ON REMEDIAL ELECTION PLAN

THIS COURT has previously entered its Findings of Fact and Conclusions of Law in which the Court concluded that the at-large election system used to elect the City of Starke City Commission operates in a manner which violates Section 2 of the Voting Rights Act, 42 U.S.C. §1973. The Court further instructed the parties to file submissions directed to the remedy aspect of this case.

The parties have now submitted to the Court a Joint Motion to Adopt Final Remedial Election Plan which includes

the geographical boundaries of the five proposed election districts.

The Court having reviewed the status of this action, and being aided by the recommendations of Plaintiffs' and Defendants' counsel, and being of the opinion that the best interest of the parties and the citizens of the City of Starke, Florida would be served by approving the jointly proposed Final Order on Remedial Election Plan submitted by the parties, the Court finds that the proposed motion shall be granted.

IT IS THEREFORE ORDERED AND ADJUDGED as follows:

1. The Defendants shall conduct future elections for the Starke City Commission under a five single member district election system. All candidates in future elections must reside within the geographical boundaries of their city commission district and only city voters in that particular district may cast ballots for the particular candidate of their choice running in their commission district.

2. The geographical boundaries of the five city commission districts shall be in accordance with the district map attached hereto as Exhibit "A" and incorporated herein by reference. These districts are more particularly described



as follows:

District 1:

All that portion of the Corporate Limits of the City of Starke lying within the following described line: Commence at the intersection of the centerline of County Road 100-A (Edwards Road) with the Easterly boundary of the SW1/4 of SW1/4 of Section 29, Township 6 South, Range 22 East, for the Point of Beginning and run Easterly, along said centerline, to an intersection with the centerline of Orange Street; thence Northerly, along said centerline, to an intersection with the centerline of Weldon Street (County Road 229-A); thence Easterly, along last said centerline, to an intersection with the centerline of State Road 16 (Brownlee Street); thence Southeasterly along last said centerline, to an intersection with the centerline of Walnut Street, thence Southwesterly, along last said centerline, to an intersection with the centerline of Call Street (State Road 230); thence Southeasterly, along last said centerline, to an intersection with a Northerly prolongation of the centerline of Colley Road; thence Southerly, along last said centerline, to an intersection with the centerline of Wilson Road; thence Easterly, along last said centerline, to an intersection with the Easterly boundary of the W1/2 of Section 34; thence Southerly, along last said Easterly boundary and along the Easterly boundary of the N1/4 of SW1/4 of said Section 34 to the Southeast corner thereof; thence Westerly, along the Southerly boundary thereof, along the Southerly boundary of the N1/4 of the S1/2 of Section 33, along the Southerly boundary of the N1/4 of the SE1/4 of Section 32 and along the Southerly boundary of the NE1/4 of NE1/4 of SW1/4 of said Section 32, to the Southwest corner thereof; thence Southerly, along the Westerly boundary of the E1/2 of NE1/4 of SW1/4, to the Southwest corner thereof; thence Westerly, along the Southerly boundary of the NE1/4 of SW1/4, to an intersection with a line 1000 feet Westerly of when measured at right angles to the Westerly boundary of the right of way of State Road 200 (U.S. 301); thence South 33 degrees, 48 minutes and 44 seconds West, along said line, 1001.86 feet; thence North

88 degrees, 40 minutes and 25 seconds East, 1222.85 feet to the aforesaid Westerly boundary of the right of way of State Road 200; thence South 33 degrees, 48 minutes and 44 seconds West, along last aforesaid Westerly boundary, 73.36 feet; thence South 88 degrees, 40 minutes and 25 seconds West, 1222.85 feet to the aforesaid line, being 1000 feet Westerly of the Westerly boundary of the right of way of State Road 200; thence South 33 degrees, 48 minutes and 44 seconds West, along said line and along a Southwesterly prolongation thereof, 3880.00 feet to an intersection with the North line of the South 20 feet of the NE1/4 of said Section 6; thence South 88 degrees, 41 minutes and 08 seconds West, along last aforesaid Northerly line, 1029.51 feet to a concrete monument on the West line of said NE1/4 of Section 6; thence North 1 degree, 27 minutes and 29 seconds West, along said West line, 2585.80 feet to the centerline of Alligator Creek; thence run along the centerline of Alligator Creek the following courses and distances: North 80 degrees, 21 minutes and 22 seconds East, 206.38 feet; South 86 degrees, 50 minutes and 51 seconds East, 136.14 feet; North 38 degrees, 15 minutes and 55 seconds East, 175.83 feet; North 25 degrees, 54 minutes and 10 seconds East, 157.81 feet; North 33 degrees, 27 minutes and 44 seconds East, 1150.34 feet; North 20 degrees, 07 minutes and 42 seconds East, 511.69 feet; North 33 degrees, 07 minutes and 08 seconds East, 1006.64 feet; North 32 degrees, 47 minutes and 19 seconds East, 1000.00 feet; North 31 degrees, 36 minutes and 29 seconds East, 507.20 feet; North 51 degrees, 55 minutes and 36 seconds East, 313.39 feet; thence North 80 degrees, 21 minutes and 02 seconds East, 736.24 feet to the Westerly line of the SE1/4 of NW1/4 of said Section 32; thence Northerly, along the Westerly boundary of the E1/2 of NW1/4, to the Point of Beginning.

#### District 2:

The district in the northeastern quadrant of the City bounded by the city limits on the north and the east, by the south side of State Road 16 to the South, and bounded by the Seaboard System railroad tracks to the west.

### District 3:

All that portion of the Corporate Limits of the City of Starke lying within the following described lines: Commence at the intersection of the Northerly boundary of said Corporate Limits with the centerline of the CSX Transportation Railroad for the Point of Beginning and run Southerly, along said centerline, to an intersection with the centerline of Brownlee Street (State Road 16); thence Northwesterly, along last said centerline, to an intersection with the centerline of Weldon Street (County Road 229); thence Westerly, along last said centerline, to an intersection with the centerline of Orange Street; thence Southerly, along last said centerline, to an intersection with the centerline of Pratt Street; thence Westerly and Southerly along last said centerline, to an intersection with the centerline of State Road 100; thence Westerly, along last said centerline, to an intersection with the Easterly boundary of the NW1/4 of SW1/4 of Section 29, Township 6 South, Range 22 East; thence Northerly, along last said Easterly boundary and along the Easterly boundary of the W1/2 of NW1/4 of said Section 29, to the Northerly boundary of said Section 29; thence Easterly, along last said Northerly boundary, to the Westerly boundary of the E1/2 of Section 20; thence Northerly, along last said Westerly boundary, to the Northerly boundary of said Section 20, being the Northerly boundary of said Corporate Limits; thence Easterly, along the Northerly boundary of said Corporate Limits, to the Point of Beginning.

### District 4:

All that portion of the Corporate Limits of the City of Starke lying within the following described lines: Commence at the intersection of the Easterly boundary of said Corporate Limits with the centerline of Brownlee Street (State Road 16) for Point of Beginning and run Westerly, along said centerline to an intersection with the centerline of Walnut Street; thence Southwesterly, along last said centerline, to an intersection with the centerline of Call Street (State Road 230); thence

Southeasterly, along last said centerline, to an intersection with a Northerly prolongation of the centerline of Colley Road; thence Southerly, along last said centerline, to an intersection with the centerline of Wilson Road; thence Easterly, along last said centerline to an intersection with the aforesaid Easterly boundary of the Corporate Limits; thence Northerly, along said Easterly boundary, to the Point of Beginning.

District 5:

All that portion of the Corporate Limits of the City of Starke lying within the following described lines: Commence at the intersection of the centerline of Orange Street with the centerline of Edwards Road for the Point of Beginning and run Westerly, along last said centerline, to the Westerly boundary of the E1/2 of SW1/4 of said Section 29; thence Northerly, along said Westerly boundary, to an intersection with the centerline of State Road 100; thence Easterly, along said centerline, to an intersection with a Southerly prolongation of the centerline of Pratt Street; thence Northerly and Easterly, along said centerline, to an intersection with the centerline of Orange Street; thence Southerly, along last said centerline, to the Point of Beginning.

Together with the following described parcels: A parcel of land lying partly in the NW1/4 of SW1/4 of Section 29 and partly in the NE1/4 of SE1/4 of Section 30, all in Township 6 South, Range 22 East, Bradford County, Florida, and being more particularly described as follows: Commence at the Southeast corner of said NW1/4 of SW1/4 and run North 02 degrees, 10 minutes West, along the Easterly boundary thereof, 897.6 feet to the centerline of State Road 100; thence South 89 degrees, 08 minutes West, along said centerline, 71.9 feet; thence South 01 degree, 04 minutes East, 50.2 feet to the Southerly boundary of the right of way of State Road 100 for the Point of Beginning. From Point of Beginning thus described, continue South 01 degree, 04 minutes East, 400.8 feet; thence South 89 degrees, 37 minutes West, 904.6 feet; thence North 74 degrees, 13 minutes West, 472.6

feet; thence North 07 degrees, 19 minutes West, 293.7 feet to said Southerly boundary; thence in an Easterly direction, along said Southerly boundary, 1390 feet, more or less, to the Point of Beginning. All being and lying in Sections 29 and 30, Township 6 South, Range 22 East, Bradford County, Florida. Also described as: A part of the NW1/4 of SW1/4 of Section 29 and the NE1/4 of SE1/4 of Section 30, Township 6 South, Range 22 East, Bradford County, Florida, being more particularly described as follows: Commence at the intersection of the East boundary of said NW1/4 of SW1/4 and the South right of way line of State Road No. 100 (100' R/W) and run thence South 87 degrees, 58 minutes and 39 seconds West, along said right of way line, 99.86 feet to the Point of Beginning; thence continue South 87 degrees, 58 minutes and 39 seconds West, along said right of way line, 768.17 feet to the beginning of a curve concave Northerly and having a radius of 5779.60 feet; thence Westerly, along the arc of said curve through a central angle of 06 degrees, 10 minutes and 10 seconds, an arc distance of 622.33 feet; thence South 08 degrees, 34 minutes and 03 seconds East, 294.48 feet; thence South 75 degrees, 28 minutes and 03 seconds East, 472.77 feet; thence North 88 degrees, 24 minutes and 41 seconds East, 904.76 feet; thence North 02 degrees, 20 minutes and 02 seconds West, 400.66 feet to the point of beginning.

Lakewood, as per plat recorded in Plat Book 3, Pages 57 and 58 of the public records of Bradford County, Florida (See recorded plat for metes and bounds description.)

A parcel of land lying in the NW1/4 of SW1/4 of Section 29, Township 6 South, Range 22 East, Bradford County, Florida; said parcel being more particularly described as follows: Commence at an intersection of the Easterly boundary of said NW1/4 of SW1/4 with the Southerly boundary of the right of way of State Road 100 (100' R/W) for Point of Beginning and run South 87 degrees, 58 minutes and 39 seconds West, along said Southerly boundary, 99.86 feet; thence South 02 degrees, 20 minutes and 02 seconds East, 100.00 feet; thence North 87 degrees, 58 minutes and 39 seconds East, parallel with said Southerly boundary, 99.03 feet to the aforesaid Easterly boundary; thence North 01



degree, 51 minutes and 21 seconds East, along said Easterly boundary, 100.0 feet to the Point of Beginning.

A parcel of land lying in the NE1/4 of SE1/4 of Section 30, Township 6 South, Range 22 East, Bradford County, Florida; said parcel being more particularly described as follows: A parcel of land being 100 feet in width, bounded on the North by the Southerly boundary of the right of way of State Road 100 (100' R/W), bounded on the East by Westerly boundary of a parcel owned by Pine Forest Limited and recorded in O.R.B. 169, P. 402 & 403 of the public records of said County, bounded on the West by the Westerly boundary of said NE1/4 of SE1/4 and bounded on the South by a line 100 feet Southerly of, when measured at right angles to, and parallel with the aforesaid Southerly boundary of the right of way of State Road 100.

A parcel of land lying in the NW1/4 of SE1/4 of Section 30, Township 6 South, Range 22 East, Bradford County, Florida; said parcel being more particularly described as follows: Commence at an intersection of the Easterly boundary of said NW1/4 of SE1/4 with the Southerly boundary of the right of way of State Road 100 (100' R/W) for Point of Beginning and run South, along said Easterly boundary, 595.52 feet; thence West, 15.0 feet; thence South 7 degrees, 23 minutes and 14 seconds West, 329.05 feet to the Northerly boundary of the right of way of Butler Road (66' R/W) (said point being 65 feet Northwesterly of an intersection of said Easterly boundary with said Northerly boundary); thence Northwesterly, along said Northerly boundary, to an intersection with the Easterly boundary of the right of way of County Road 100A (Edwards Road) (formerly S.R. S.-100A); thence Northeasterly, along last aforesaid Easterly boundary, to an intersection with aforesaid Southerly boundary of the R/W of State Road 100; thence Southeasterly, along said Southerly boundary, to the Point of Beginning.

3. Elections for the Districts 2 and 4 city commission seats shall be held on the second Tuesday in September of


1989. Elections for the Districts 1, 3 and 5 city commission seats shall be held on the second Tuesday in September of 1990.

4. The Starke City Commission shall continue to be elected for a two year term of office.

5. All other terms and conditions of this Court's Order on Remedial Election Plan dated April 26, 1989 shall remain in full force and effect.

6. This civil suit is hereby closed as all issues have now been resolved by the parties and by Court order.

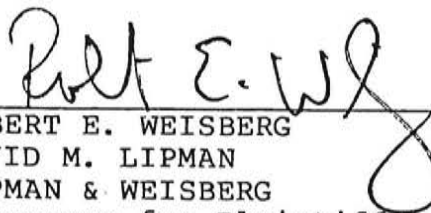
DONE AND ORDERED this 29th day of June, 1989.



---


WILLIAM TERRELL HODGES  
CHIEF JUDGE  
U.S. DISTRICT COURT

AGREED AND CONSENTED TO BY:

  
ROBERT E. WEISBERG  
DAVID M. LIPMAN  
LIPMAN & WEISBERG  
Attorneys for Plaintiffs  
5901 S.W. 74th Street  
Suite 304  
Miami, Florida 33143-5186  
(305) 662-2600

DATED:

6/23/89

  
TERENCE M. BROWN  
TERENCE M. BROWN, P.A.  
Attorneys for Defendants  
Post Office Drawer 40  
Starke, Florida 32091  
(904) 964-8272

DATED:

6/21/89

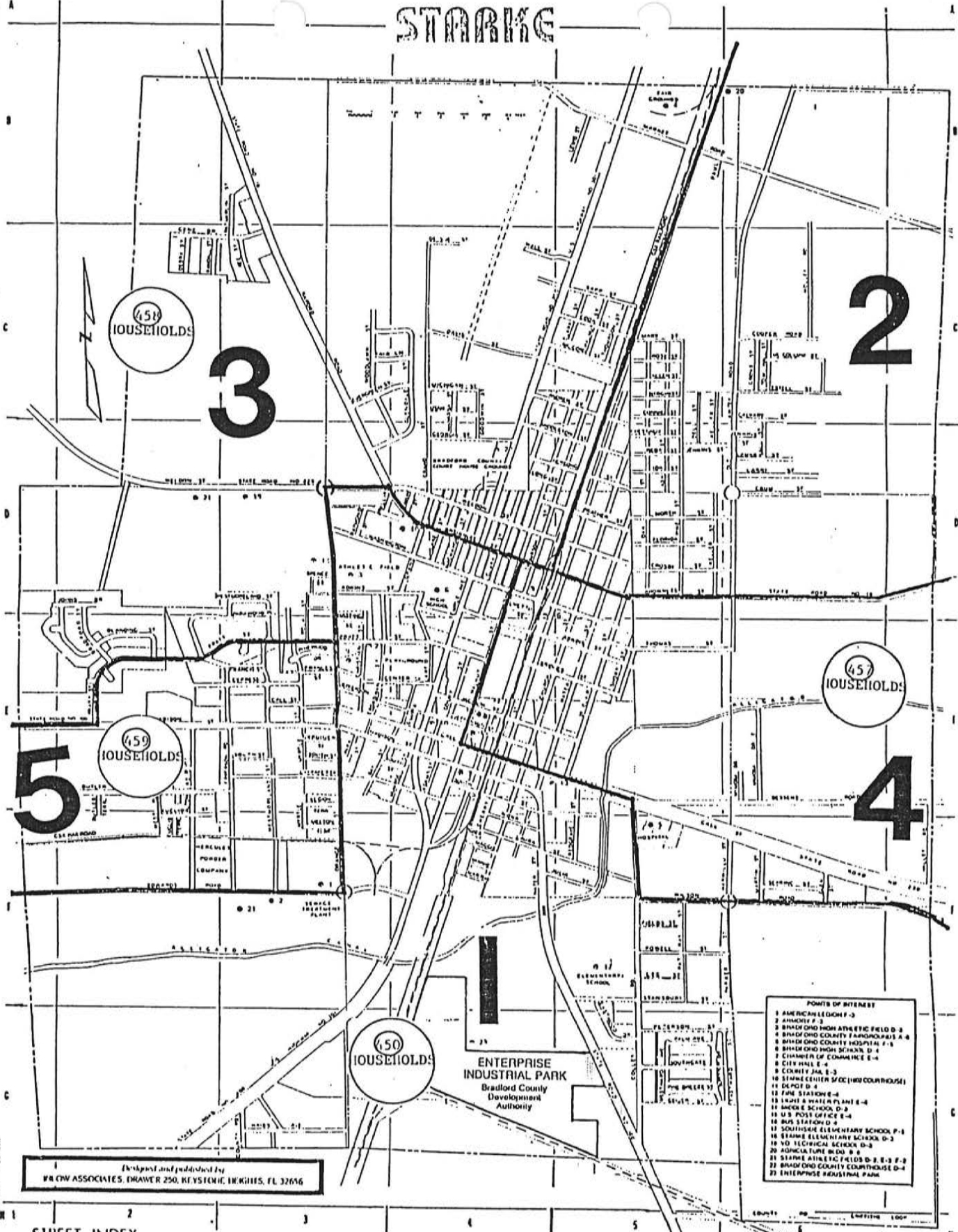
COPIES FURNISHED TO:

TERENCE M. BROWN, ESQUIRE  
Post Office Drawer 40  
Starke, Florida 32091

ROBERT E. WEISBERG, ESQUIRE  
DAVID M. LIPMAN, ESQUIRE  
5901 S.W. 74th Street  
Suite 304  
Miami, Florida 33143-5186



# STARK



Designed and published by  
WPCW ASSOCIATES, DRAWER 250, KEYSTONE, FL 32646

- POINTS OF INTEREST**
- 1 AMERICAN LEADERSHIP
  - 2 AMERICAN F-3
  - 3 BRADFORD HIGH ATHLETIC FIELD D-2
  - 4 BRADFORD COUNTY HOSPITAL F-1
  - 5 BRADFORD COUNTY HOSPITAL F-2
  - 6 CHAMBER OF COMMERCE E-4
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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

BRADFORD COUNTY BRANCH OF  
THE NAACP, ELIZABETH G. WALKER,  
JIMMIE L. SCOTT, CAROLYN B. SPOONER  
and MAURICE J. WHITE, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

vs.

CIVIL ACTION NO: 86-5-CIV-J-12

CITY OF STARKE, FLORIDA;  
MAYOR CHARLES SCHAEFER,  
CITY COMMISSIONERS BOBBY BIGGS,  
FERNON SILCOX, TRAVIS WOODS and  
JIMMY CROSBY, their successors  
and agents, all in their official  
capacities,

Defendants.

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ORDER ON REMEDIAL ELECTION PLAN

On February 27, 1989, this Court entered its Findings of Fact and Conclusions of Law in which the Court concluded that the at-large election system used to elect the Starke City Commission operates in a manner which violates Section 2 of the Voting Rights Act, 42 U.S.C. §1973. The Court further instructed the parties to file submissions directed to the remedy aspect of this case.

The Court, having reviewed the status of this action, and being aided by the recommendations of Plaintiffs' and Defendants' counsel, and being of the opinion that the best interest of the parties and the citizens of the City of Starke, Florida would be served by approving the jointly proposed Order On Remedial Election Plan submitted by the parties, and the

COPY

Court having reviewed the remedial election plan tendered by Plaintiffs' and Defendants' counsel, finds that it should be approved.

IT IS THEREFORE, ORDERED AS FOLLOWS:

1. The Defendants City of Starke, its City Commissioners, their successors and officers are enjoined from utilizing city-wide at-large elections to elect members of the City of Starke City Commission.

2. The Defendants shall conduct future elections for the Starke City Commission under a five single member district election system. All elections henceforth will proceed on a single district basis; that is, all candidates in future elections must reside in the residence area for which they seek election and only voters in that particular residence area shall cast ballots for the particular candidate running in that area.

3. The Plaintiffs are the prevailing party in this action, pursuant to the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973(e), and Civil Rights Attorney Fees Awards Act of 1976, 42 U.S.C. §1988. Defendants shall pay attorneys' fees and expenses in the amount of \$195,000.00 within ten (10) days of issuance of this Order.

4. Upon the Court receiving from the parties the geographical boundaries and corresponding demographic data for the five single member districts and the timetable for elections, the Court will enter a Final Judgment closing this

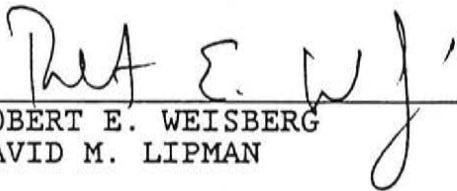
litigation.

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_,  
1989.

\_\_\_\_\_  
U.S. DISTRICT COURT JUDGE

AGREED AND CONSENTED TO:

\_\_\_\_\_  
TERENCE M. BROWN, ESQ.  
P.O. Drawer 40  
Starke, Florida 32091  
(904) 964-8272

  
\_\_\_\_\_  
ROBERT E. WEISBERG  
DAVID M. LIPMAN

LIPMAN & WEISBERG  
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Suite 304  
Miami, Florida 33143-5186  
(305) 662-2600

ATTORNEY FOR DEFENDANTS

DATED: \_\_\_\_\_

1400B

ATTORNEYS FOR PLAINTIFFS

DATED: Aug 3, 1989

dents after that date.<sup>10</sup> Even after 1978, though, an extreme case analysis of Precinct No. 7 can serve as a useful tool to corroborate the accuracy of the regression estimates and to determine if the regression estimates of black voting behavior are consistent with what one would expect to find in the majority black precinct.

12. Based on his analysis, Dr. Lichtman concluded that elections in Starke are racially polarized and that black voters in Starke are politically cohesive in their support of black candidates.

13. Dr. Harold Stanley, Professor of Political Science at the University of Rochester, the expert witness for the Defendants, testified that the figures derived from his own regression analysis of voting returns from Starke were essentially the same as those determined by Dr. Lichtman for the same elections, those between black and white candidates. Dr. Stanley further testified, however, that focusing only on races involving black candidates does not present an accurate picture of voting in Starke. Dr. Stanley, therefore, analyzed 93 elections between 1968 and 1988. These elections included not only those in which black candidates ran for office but also some of those in which white candidates ran for office against other white candidates ("white vs. white" elections).

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<sup>10</sup> For example, in 1976 blacks comprised 390 of the 391 registered voters in Precinct No. 7. Following a modification of the Precinct 7 boundaries, blacks comprised between 70% to 80% of the registered voters in that precinct.

14. Dr. Stanley determined that in 71% of these elections (66 out of 93), the candidate receiving the most<sup>11</sup> votes cast by blacks placed first in the total vote count in Bradford County. The elections analyzed by Dr. Stanley included a variety of national, state and local primary, run-off and general elections. On the basis of his study, Dr. Stanley testified that the overall pattern of voting in Starke indicates that blacks and whites usually vote for the same candidate and that the candidates preferred by blacks often place first.

15. In assessing this conflicting expert testimony, the Court's task is simplified by the fact that the experts' estimates of black and white voting behavior are virtually identical in the elections involving black candidates.<sup>12</sup>

<sup>11</sup> A majority of the votes in head-to-head elections or a plurality of the votes in multi-candidate elections.

<sup>12</sup>

Percentages of Votes Cast By Black  
and White Voters for Black Candidates

	<u>Dr. Lichtman</u>		<u>Dr. Stanley</u>	
	<u>WHITE</u>	<u>BLACK</u>	<u>WHITE</u>	<u>BLACK</u>
A. <u>County Primary Elections</u>				
1. School Board (Johnson 1974)	7%	94%	7%	94%
2. School Board (Davis 1978)	9%	99%	10%	96%
B. <u>Regional Primary Elections</u>				
3. U. S. Congress District 2 (Greadington)	5%	30%	6%	29%

16. The Court will first review elections involving black candidates for the Starke City Commission; second, the other various elections in which registered voters in Starke could participate and in which black candidates were running for office; third, the elections analyzed by Dr. Stanley; and fourth, miscellaneous related issues.

(b) City Commission Elections Involving Black Candidates

17. Three blacks have run for election to office on the Starke City Commission: Ms. Maurice White in 1969, Rev. Leroy Davis in 1970, and Mr. George Holiday, Jr. in 1979. A fourth black candidate, Mr. Ross Chandler, qualified as a candidate in

4. State Senate  
District 5  
(Moore)

1%	42%	2%	42%
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C. Statewide Elections

5. U. S. Senate  
Primary 1972  
(Hastings)

1%	42%	3%	42%
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6. U. S. Presidential  
Primary - 1972  
(Chisolm)

0%	24%	0%	24%
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7. Public Service  
Commission Primary  
1974 (Hastings)

30%	68%	33%	65%
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8. Supreme Court  
1976 (Hatchett)

49%	84%	50%	84%
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9. U. S. Presidential  
Primary 1984  
(Jackson)

0%	80%	0%	76%
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10. U. S. Presidential  
Primary 1988  
(Jackson)

1%	98%	1%	98%
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1986 but withdrew his candidacy over a month prior to the election.

18. In 1969, Ms. Maurice White, a black school teacher and life-long resident of Starke, finished third in the election for City Commission Group No. 4 against two white candidates. Ms. White received 455 of the 1,669 votes cast (27%). According to Ms. White, she became a candidate for the City Commission because she felt qualified, because she believed that blacks were not fully participating in city government, and because she thought that other blacks were afraid to run. Ms. White testified that she campaigned door-to-door throughout Starke. However, while black citizens worked on her campaign and encouraged her candidacy, she testified that she received resistance from whites both to her candidacy and to her door-to-door campaigning. The local newspaper reported that high voter turnout in the election was attributed by some observers to the interest generated by the candidacy of the first black to seek city office.

19. In 1970, Rev. Leroy Davis was the second black citizen to run for City Commission. Rev. Davis ran for the City Commission Group No. 5 position against a white candidate, W.M. Noegel. Rev. Davis received 405 or 31% of the 1,297 votes cast. Testimony from Rev. Davis, Ms. White and others indicates that black citizens overwhelmingly supported Rev. Davis' candidacy. The local newspaper reported that poll watchers stated that "it appeared the city's 387 Negro voters turned out in numbers." Rev. Davis testified that his qualifying fee was paid by black



citizens and that, although he campaigned in both white and black communities, only blacks assisted him in his campaign efforts.

20. In 1979, Mr. George Holiday, Jr., a building contractor, became the third black individual to run for the Starke City Commission. In the first primary for the Group 4 seat, Mr. Holiday placed second in a three candidate field garnering 233 votes or 36% of the total vote. Because the leading candidate, incumbent Vernon Silcox, had received 648 votes or only 48% of the total vote, a run-off election was necessary between Mr. Holiday and Mr. Silcox. In the run-off, Mr. Silcox defeated Mr. Holiday by receiving 799 votes (56%) to Mr. Holiday's 617 (44%).

21. Mr. Holiday and others testified to the extensive involvement of black citizens in his campaign. Even so, Mr. Holiday estimated that he received only approximately 75% of the black vote due to the fact that Mr. Silcox secured considerable support from black voters because of his long time residence and activity in the area as an insurance agent and because a large segment of the black population felt that they were indebted to him for favors he had done for them in the past. Mr. Holiday additionally testified that two white candidates for city office, Mr. Joe Warren, the incumbent Mayor of Starke, and Mr. Harold Epps, a candidate for the office of Chief of Police, openly supported his candidacy. Like Mr. Holiday, both Mr. Warren and Mr. Epps were defeated in their elections.

22. Although the Court is unable to examine precinct election returns for City Commission elections since all citizens

vote at a single location, the undisputed available evidence is that black voters in Starke supported each of the three black candidates for City Commission by large margins. The undisputed evidence is that the campaign workers and supporters for each of the candidates were almost all black citizens. Additionally, the witnesses who addressed the matter testified that black citizens in Starke tend to vote for black candidates. While there is evidence that Mr. Holiday did garner some white support for his candidacy, the level of this support was insufficient to enable him to defeat the white candidate, Mr. Silcox.

23. A fourth black candidate, Mr. Ross Chandler, qualified as a candidate for the Starke City Commission in July 1986. Approximately three weeks after qualifying, Mr. Chandler withdrew his candidacy. Mr. Jimmy Scott, President of the Bradford County Branch of the NAACP, and Ms. Maurice White testified that they counseled Mr. Chandler to withdraw from the election because of their concern that the white majority in Starke might support his candidacy simply in an attempt to thwart the NAACP lawsuit (i.e., this case) challenging Starke's at-large election system. These fears were corroborated by the testimony of then-Commissioner Jimmy Crosby who testified that in his opinion some whites would vote for Mr. Chandler simply to undermine this lawsuit. Although he did not agree that an electoral victory on his part would endanger the lawsuit, Mr. Chandler withdrew from the race the day after speaking with Mr. Scott and Ms. White. Mr. Chandler testified that he decided to withdraw because he had been unable to

raise sufficient funds and did not have enough time to effectively wage his campaign.

(c) Other Elections Contested in Starke  
Involving Black Candidates

24. Prior to the single member redistricting of the School Board in 1986, two blacks had offered themselves as candidates for county level positions in Bradford County, Mr. Herman Johnson and Rev. Leroy Davis, both of whom ran for at-large positions on the Bradford County School Board.<sup>13</sup> In 1974, Mr. Johnson ran for election to the School Board from District No. 1. In Starke voting precincts in the first primary, Mr. Johnson received 24.1% of the vote and came in third behind two white candidates. In Starke precincts, 94% of blacks voted for Mr. Johnson.<sup>14</sup> In contrast, only 7% of white voters supported him. Four years later in 1978, Rev. Davis ran for a School Board seat from District No. 3. In that election, Rev. Davis received 26.4% of the total vote from Starke precincts. In those precincts he received 99% of the black vote compared to 9% support from whites.<sup>15</sup>

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<sup>13</sup> Additionally, Mr. Jimmy Scott and Ms. Carolyn Spooner were candidates for the school board in 1986 after the board had adopted the single member district election system.

<sup>14</sup> The figures for percentage of support by race are taken from Dr. Lichtman's ecological regression analysis. These figures, as well as Dr. Stanley's calculations, are set out in table form, supra, in footnote 12.

<sup>15</sup> No regression analysis was performed on the 1986 black candidacies for School Board. In the case of Mr. Scott's election, this was so because he ran unopposed for the newly created single member District No. 1, a majority black district which includes the northeastern quadrant of the City of Starke. In the case of Ms. Spooner's election, no analysis was performed because she ran for office from a district in which there was an

25. City of Starke voters have also participated in several regional elections in which black candidates have run for office. In 1986, two black individuals were candidates in the September Democratic primary elections. Barbara Greadington, a candidate for United States House of Representatives, District 2, the sole black candidate in her race, finished third among a field of five candidates in the Starke voting precincts, receiving 30% of the black vote and 5% of the white vote from those precincts. In the State Senate District 5 election, Michael Moore, the sole black candidate, finished last in Starke voting precincts among the four candidates. In the Starke precincts, 42% of blacks voted for Mr. Moore whereas only 1% of whites did so. Indeed, among black voters, Mr. Moore placed first receiving a plurality of the vote.

26. Finally, black candidates have also run for several offices in statewide campaigns in which Starke citizens could vote. In 1970, Alcee Hastings ran for United States Senate in the Democratic primary. Among black voters in Starke Hastings received 42% of the vote. In contrast, he received only 1% of the vote from white voters. In 1972, Congresswoman Shirley Chisolm offered herself as a candidate in the Democratic Presidential primary. Among Starke's black voters Mrs. Chisolm received 24% of the vote; Mrs. Chisolm received no support from

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insufficient number of black registered voters in any of the Starke voting precincts on which to adequately perform a regression analysis. The Court does note, however, that in Starke precincts, Ms. Spooner finished third behind two white candidates with 24% of the vote.

white voters, however. In 1974, Alcee Hastings was again a statewide candidate. In the September 1974 Democratic primary for the Public Service Commission he received 68% of the black vote and 30% of the white vote from Starke residents. In 1976, Judge Joseph Hatchett was the incumbent candidate for the Florida Supreme Court. In the September 1976 election, Judge Hatchett, the black candidate, received 84% of the black vote in Starke and 49% of the white vote. The final black candidate to run statewide in Florida was the Rev. Jesse Jackson who ran in the Democratic Presidential primaries in both 1984 and 1988. In both elections Rev. Jackson received overwhelming support from Starke's black voters and virtually no support from Starke's white voters. Specifically, in 1984 Rev. Jackson received 80% of the black vote and 0% of the white vote. Four years later in 1988, he received 98% of the black vote and 1% of the white vote from Starke residents.

(d) Defendants' Racial Polarization Evidence

27. As previously indicated, Defendants' expert, Dr. Stanley, performed an ecological regression analysis on 93 elections which took place between 1968 and 1988. The elections he analyzed included primary, runoff and general contests for positions at the federal, state and county levels as well as some referenda elections.<sup>16</sup> Based on his analysis of the 93 elections, Dr. Stanley concluded that racially polarized voting does

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<sup>16</sup> Dr. Stanley's universe of data included 89 elections involving candidates and 4 involving referenda.



not exist in Starke because blacks and whites generally support the same winning candidate (66 of the 93 elections or 71%).

28. In conducting his analysis, Dr. Stanley neither limited the data he considered to elections involving black candidates nor did he place any additional weight on those elections involving black candidates or white candidates who had exhibited any special or unique affinity for the interests of black citizens.

29. The 93 elections analyzed by Dr. Stanley did not represent all elections in which Starke voters could participate between 1968 and 1988. Dr. Stanley testified that he analyzed only those elections which were contested and not "lopsided." Dr. Stanley defined an electoral contest as "lopsided" when the victorious candidate won the election by a three to one (75%) margin or more.<sup>17</sup>

30. A review of election data for all elections in which Starke voters could participate between May 1968 and March 1988 indicates that Dr. Stanley did not adhere to his stated criteria, however. The Court finds that several significant errors are apparent. First, Dr. Stanley erred in the exclusion of certain relevant elections. Between May 1968 and March 1988 there were 76 elections which Dr. Stanley failed to analyze notwithstanding that they were not lopsided based upon his three to one criterion. Thus, nearly one-half (45%) of the elections appropriate

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<sup>17</sup> Dr. Stanley testified that the three to one ratio he employed to determine if an election was lopsided was not a precise yardstick but rather was an "impressionistic" guide.

for inclusion in the analysis were excluded. Second, Dr. Stanley erred in the inclusion of certain elections in his analysis. Improperly included in his analysis were 23 elections which should have been omitted since they were lopsided. Thus, nearly one-quarter (24.7%) of the elections analyzed by Dr. Stanley should have been omitted from consideration.

31. Although the Court does not question the veracity of Dr. Stanley's testimony that he did not select the elections he analyzed with the intent to bias the results he obtained, the Court must conclude that the sample of elections that Dr. Stanley did analyze were, in fact, skewed in favor of reaching the conclusions that he drew. In a heavily Democratic community such as Starke,<sup>18</sup> it would be expected that in general elections both white and black voters would register as Democrats and would generally vote for the same Democratic candidate. It is therefore relevant that Dr. Stanley included a disproportionate number of general elections, compared to primary elections, in his analysis. The following numerical summary underscores this point. Thirty-three of the 89 candidate elections analyzed by Dr. Stanley were general elections. In these 33 elections, blacks and whites voted for the same Democratic candidate 29 (88%) times. However, in only 33 of the 56 primaries (59%) did blacks and whites vote for the same candidate. Thus, there exists an almost 30% difference between the extent to which

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<sup>18</sup> Voter registration data from 1986 reflect that of the 2,325 registered voters in Starke, 2,093 were registered Democrats.

whites and blacks vote the same way depending on whether general or primary elections are analyzed.

32. Given the numerical summary as stated, it is highly relevant that of the 76 elections that Dr. Stanley inappropriately excluded from his analysis, 66 were primaries. These are precisely the elections in which one would expect to find blacks and whites more often disagreeing on their candidate of choice. The corollary of this, of course, is that those elections disproportionately included for analysis, the general elections, are those more likely to show blacks and whites voting in the same manner. Therefore, even if the Court were to consider elections in which only white candidates ran for office to determine whether racially polarized voting exists in Starke, a subject discussed infra, the Court could not credit Dr. Stanley's findings, based as they are on a skewed sample of data.

33. Defendants also offered the results of a public opinion survey they had commissioned as evidence that racial polarization does not exist in Starke, that blacks in Starke no longer suffer the effect of historical discrimination, and that blacks in Starke perceive the City Commission as responsive to their needs. Defendants' survey was conducted and an interpretive report was prepared by Ms. Katherine Dowd. According to Ms. Dowd, a Ph.D. candidate at the University of Georgia, the purpose of the survey was "to measure the extent that the candidate's race, and that criterion alone, had an effect on voter decision." Ms. Dowd acknowledged that the work she did on this case was her first job



as a private consultant and further acknowledged that in all of her prior surveying and public opinion polling work she had never acted as a project director or had ultimate responsibility for the survey project. Additionally, Ms. Dowd stated she had not authored any articles, books or book chapters on survey research.

34. Dr. Kenneth Wald, Professor of Political Science at the University of Florida, offered rebuttal testimony directed to Ms. Dowd's survey and report. In addition to teaching graduate level courses on survey research, Dr. Wald has authored books, chapters in books, and published articles using survey research and involving studies of political behavior. Dr. Wald testified that in his judgment the survey instrument and report prepared by Ms. Dowd did not meet high professional standards and that it was his recommendation that Ms. Dowd's report be disregarded by the Court.

35. Dr. Wald offered a number of specific criticisms of the survey questionnaire and report. First, he addressed the phenomenon of social desirability. Dr. Wald stated that when surveying social attitudes regarding race relations, the responses provided by the survey participant may not accurately reveal that individual's behavior but instead the participant may simply conform his answers to reflect the social norms of the country. To illustrate the social desirability problem, Dr. Wald noted that in response to a question asking whether the respondent had voted in the primary election held the previous day, the responses indicated that over 80% of the respondents said they did. In

reality, however, the actual election results show that there was only a 60% turnout. Second, Dr. Wald cited confusion within the survey questionnaire. To explain this criticism, Dr. Wald reported that while the introductory instructions to the telephone survey advised the respondent that the survey would focus on the city commission, the first two questions involved county elections and county government. Third, Dr. Wald criticized Ms. Dowd's reliance on the survey questions to "predict behavior." According to Dr. Wald, while the responses to these questions may demonstrate support for the stated principle, it would be "quite naive" to use the specific responses to try to predict behavior. Finally, Dr. Wald criticized the vagueness of many of the survey questions. To illustrate this problem, Dr. Wald cited the question which referred to "past city elections." Dr. Wald stated that because each individual answering that question would consider a different time frame when answering, the question would not be standardized.

35. Because the Court credits the testimony of Dr. Wald, it finds that the report and opinions offered by Ms. Dowd are entitled to virtually no weight. Additionally, as described by Dr. Wald, the broad sweeping conclusions reached by Ms. Dowd as to Starke voters are not supported by the survey data.

(e) The Issue of City-County Precincts

36. The voting precincts analyzed by both Dr. Lichtman for the Plaintiffs and Dr. Stanley for the Defendants for the purpose of computing their ecological regression figures included some

voting precincts which contained non-City of Starke, Bradford County voters.

37. For a number of reasons, however, the experts' reliance on these voting precincts to measure voting patterns of black and white Starke voters poses no problem for the Court in making its factual findings on racially polarized voting. First, there is no dispute that the voting precinct data used by the experts is the best available data. There was no alternative to each expert relying on the Bradford County voting precinct data despite the fact that certain precincts included non-city voters. Second, the number of non-city registered voters within these precincts is not so great as to create a significant concern. Third, Dr. Lichtman performed an ecological regression analysis on non-city, Bradford County voting precincts in each of the elections involving black candidates in order to determine whether there exists an discernable difference between the voting behavior of City of Starke residents and those voters living outside the city. Based on his analysis, Dr. Lichtman concluded that the pattern of voting by race in the wholly Bradford County precincts virtually mirrored the voting patterns in the precincts containing Starke voters. Finally, there is no evidence in the record to support a finding that voters in Starke, black or white, vote differently than voters in Bradford County.

(f) Conclusions Concerning Racially Polarized Voting

38. The Court finds that in the City of Starke in elections involving a black candidate there is a consistent relationship

between the race of the voter and the race of the candidate for which he or she votes. In other words, the Court finds that where there is a black candidate running for office, black and white voters in Starke vote differently with the black voters largely supporting the black candidate while the white electorate consistently votes against the black candidate and for one of the white candidates. Notwithstanding the often overwhelming support black candidates receive from black voters, the percentage of votes received by black candidates from white voters is insufficient, even when coupled with the black vote, to allow the black's candidacy to be successful.

39. In the local elections for City Commission and School Board which occurred in the years 1969, 1970, 1974, 1978 and 1979, the expert and lay testimony reveals a consistent pattern of overwhelming support by black voters for the black candidates coupled with very little support from white voters. The black School Board candidates received 94% and 99% of the Starke black vote in 1974 and 1978 respectively, while they received less than 10% of the vote from Starke's white voters. Similarly, while there is no dispute that each of the black candidates for City Commission received some support from white citizens in Starke, the number of whites who voted for the black candidates when added to the overwhelming black support still proved insufficient for the black candidate to prevail.

40. The Court's finding that in local elections involving black candidates, black and white voters in Starke vote dif-

ferently is corroborated by an examination of voting patterns in non-local elections. In all the elections involving black candidates in which Starke citizens could vote spanning the two decades between 1968 and 1988, no black candidate has ever received a majority, in head-to-head contests, or a plurality, in multi-candidate contests, of the white vote. Indeed, in only two of the ten elections analyzed by regression analysis did a black candidate even receive over 10% of the white vote. This election data reveals an unmistakably consistent pattern in which the white voters of Starke have provided minimal support for any black candidate. In contrast, black voters in Starke almost always strongly support the black candidate. In five of the ten elections, 80% or more of the blacks supported the black candidate. In the remaining five elections, blacks supported the black candidate at a rate much higher than did white voters, as is evident from an examination of each of the following elections:

a. In the 1986 State Senate primary for District No. 5, Michael Moore, the black candidate, finished first among black voters with 42% of the vote. In contrast, Mr. Moore received only 1% of the white vote.

b. In the 1986 Democratic primary for U.S. Congressional District No. 2, Barbara Greadington, the black candidate, received 30% of the black vote finishing second among five candidates. Ms. Greadington received only 5% of the white vote.

c. In the 1972 Presidential primary, Shirley Chisolm, the black candidate finished second only to former Vice-President Hubert Humphrey among black voters with 24% of the vote. In contrast, Ms. Chisolm received 0% of the white vote and finished last among white voters who supported George Wallace with 71% of the vote.

d. In the final two elections in which a black candidate did not receive 80% or more of the black vote, Alcee Hastings was the black candidate. In the 1974 election for Public Service Commission, he received 68% of the black vote and 32% of the white vote. In his 1970 run for the Democratic nomination for U.S. Senate, he received 42% of the black vote but only 1% of the white vote.

41. In addition to the ecological regression estimates revealing the percentage of support for black candidates by black and white voters, the correlation co-efficient ( $R^2$ ) similarly demonstrates a consistently strong correlation between the percentage of vote for the black candidate, precinct by precinct, and the percentage of blacks in particular voting precincts. Dr. Lichtman found, for example, that in the School Board elections, there were strong correlations in both the 1974 Johnson candidacy (.99) and in the 1978 Davis candidacy (.97).<sup>19</sup> Dr. Lichtman

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<sup>19</sup> The correlation coefficient expresses a correlation that can range from 0.0 (no relationship) to 1.0 (perfectly consistent relationship).



found similarly high  $R^2$  values ranging from .71 to .98 in the remaining elections in which there was a black candidate.<sup>20</sup>

C. Additional Factors to be Considered

(a) History of Racial Discrimination

42. The State of Florida has a long and well documented history of discrimination against black individuals.<sup>21</sup> As described by Plaintiffs' expert, Dr. Jerrell Shofner, a number of means were used in the past to prevent blacks from exercising their right to vote including poll taxes, all-white primaries and physical intimidation.

43. Although the City of Starke may be somewhat atypical of Florida communities because it did not employ certain means, such as a poll tax, to discourage black electoral participation, the evidence is clear that black residents of Starke have suffered

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<sup>20</sup> The other  $R^2$  values computed by Dr. Lichtman are as follows:

United States Senate Primary 1970	
Alcee Hastings	.96
Presidential Primary 1972	
Shirley Chisolm	.95
Public Service Comm. 1974	
Alcee Hastings	.71
Supreme Court 1976	
Joseph Hatchett	.89
Presidential Primary 1984	
Jesse Jackson	.98
U.S. Congressional Primary 1986	
Barbara Greadington	.89
State Senate Primary 1986	
Michael Moore	.91
Presidential Primary 1988	
Jesse Jackson	.97

<sup>21</sup> See e.g., McMillan v. Escambia County, Florida, 638 F.2d 1239, 1244 (5th Cir. 1981).

from pervasive racial discrimination. Perhaps the clearest example of city-sponsored discrimination can be found in the City Charter of 1927. The Charter explicitly empowered the City Council to establish and set aside separate and distinct districts within the city where blacks and whites could reside. Although not enforced in recent years for obvious reasons, this Charter provision empowering the City to segregate the races remains on the books to this day. The modern day City Commission has never acted to delete it.

44. Consistent with the policies of racial segregation embodied in the City Charter, as Starke developed blacks were concentrated and segregated in the northeastern "Reno" section of the city. The lingering effects of the historical racial discrimination are evident by the fact that blacks today continue to be segregated by custom in the northeastern quadrant of the city.

(b) Use of Electoral Devices to Enhance the  
Opportunity for Discrimination

45. The City of Starke's at-large voting system contains several characteristics which enhance the dilutive effects of at-large voting thereby further reducing the opportunity for black citizens to get elected to positions in city government. Starke City Commission candidates run in head-to-head contests for a numbered post. A numbered post system requires a candidate to declare for a particular seat on a governmental body. The candidate then runs only against other candidates who have declared



for that position. The voters then have one vote for that seat. The system prevents the use of bullet, or single shot, voting.

46. Additionally, there is a majority vote requirement. A majority vote system requires that in order to win an election, a candidate must receive more than 50% of the vote. If there are more than two candidates, and no candidate receives more than 50% of the vote, then the top two vote-getters engage in a run-off election.

47. The geographical boundaries of Starke are not so unusually large as to further enhance the dilutive effect of the at-large system or the ability of blacks to participate in the political process. However, the city does not have sub-district residency requirements for City Commissioners. Consequently, the racial segregation of the city, coupled with the complete absence of elected black officials, has resulted in no City Commissioners being elected who lived in the city's black community.

#### (c) Candidate Slating Process

48. There was no evidence of a candidate slating process for the Starke City Commission.

#### (d) Lingering Effects of Past Discrimination

49. Various socioeconomic factors which include income and educational levels indicate that blacks are substantially less well-off in Starke than whites. Black adults in Starke are significantly under-educated as compared to white adults. As of 1980, nearly 60% of black adults had an eighth grade or less education as compared to only 26% of white adults. Moreover,

whites completed high school at nearly twice the rate of blacks. Blacks also earn significantly less money than whites in the City of Starke. In 1979, the average median income for white families was \$15,840 while the median income for black families was \$6,837. Further, as of 1979, 45% of black families in Starke had an income of less than the poverty level while the rate was only 17% for white families.

50. The socioeconomic data clearly demonstrates that a substantial difference in the status of whites and blacks exists in Starke. Despite this disparity, however, the Court does not believe that the effects of past discrimination, as opposed to the actual present discrimination evidenced by the voting patterns discussed supra, inhibits blacks from participating in the political process. This conclusion is supported by the fact that the percentage of black voter registration and the rate of black voter turn-out is similar to that of whites. Further, the disparity in income levels should not inhibit black citizens from participating in City or Starke politics as the testimony reflected that financial expenditures by candidates running for city office were quite small. Finally, two of the Plaintiffs themselves, Mr. Jimmy Scott and Ms. Elizabeth Walker (by deposition) testified that they did not believe that the education, employment or health of blacks hinder their ability to participate in the City's political process.

(e) Racial Appeals in Political Campaigns

51. There was no evidence of any overt or subtle racial appeals in any of the political campaigns in the City of Starke.

(f) Responsiveness to the Needs of Black Citizens

52. The City presented evidence of significant municipal service improvements such as street paving and water and sewer improvements in the city's black residential areas. While the bulk of these improvements were accomplished through the use of federal funds and not through the expenditure of city revenue, the testimony indicated that the overall level of improvements in city services provided to the mostly black neighborhoods is on par with the level being provided to the mostly white areas of town.

53. While the city's responsiveness to the needs of its black citizens is acceptable with regard to city services, that is not so with regard to upper-level employment opportunities. Blacks who are employed by the city are concentrated in lower paying, more menial positions. Significantly, the undisputed testimony revealed that no black individual has ever served as a department head for any of Starke's numerous departments.

IV. CONCLUSIONS OF LAW

54. As was discussed in Section II, supra, the Supreme Court's analysis of the Voting Rights Act in Gingles, as interpreted by the Eleventh Circuit in Solomon, establishes the legal framework which the Court must use to assess Plaintiffs' claim

that the City of Starke's at-large election system violates Section 2.

A. Underrepresentation

55. The first element Plaintiffs must prove to establish their §2 claim is that blacks are underrepresented in proportion to their percentage of the total electorate. Solomon, slip op. at 741. The undisputed evidence established that blacks comprise 31% of Starke's population and that a black candidate has never been elected to any City office. ¶¶ 4 & 6 supra. This evidence conclusively demonstrates that blacks in the City of Starke are underrepresented as a matter of law. See Solomon, slip op. at 741.

B. Geographic and Political Cohesion

56. The second element Plaintiffs must prove is that blacks in Starke could constitute a politically cohesive majority in a single-member district. Thus, Plaintiffs must prove both that blacks in Starke are politically cohesive and that they are sufficiently geographically cohesive to form a single-district majority. Solomon, slip op. at 742.

57. With respect to geographic cohesion, it is undisputed that Starke's black population is sufficiently large and geographically compact so as to be able to form a majority in a single-member district. See ¶ 7 supra.

58. With respect to political cohesion, the Court concludes, based upon the statistical evidence compiled and presented by Dr. Lichtman and the testimony adduced at trial, that

Plaintiffs have demonstrated that black voters in Starke are politically cohesive. See Campos v. City of Baytown, Texas, 840 F.2d 1240, 1244 (5th Cir. 1988) (minority group is politically cohesive if it votes together). As is more fully described above at ¶¶ 24-26 and 39-41, both the  $R^2$  correlation coefficient and the ecological regression analyses performed by Dr. Lichtman show that blacks are politically cohesive in the City of Starke. The  $R^2$  figures in the ten elections studied range from .71 to .99 with an average of .92, on a scale of 0.0 to 1.0. The high values obtained for  $R^2$  indicates that there is a very strong relationship between the percentage of the vote received by the black candidate and the percentage of black registered voters. Cf. Solomon, slip op. at 742-46 (finding average "r" values of .787, .966, and .925 to be "very high" and "probative of black political cohesiveness"). Similarly, the ecological regression analysis revealed that in five of the ten elections studied, 80% or more of blacks voted for the black candidate.<sup>22</sup> Finally, the testimony, particularly that of the black candidates for City Commission, indicated that the black citizens of Starke largely encourage and support black candidates running for office in Starke. Based upon the foregoing, the Court concludes that

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<sup>22</sup> In the other five elections, black electoral support for black candidates ranged from 68% to 24%. In the three elections in which blacks failed to give a majority or plurality of their support to the black candidate, the black candidate still received a great deal more support from the black voters (ranging from 42% to 24%) than from white voters (5% to 0%). These three elections all had multi-candidate fields with five or more candidates running.

Plaintiffs have proven the second element of their §2 claim by establishing that blacks in the City of Starke are politically and geographically cohesive.

59. Two issues concerning the statistical evidence require further discussion.<sup>23</sup> First, because there have been only three elections involving black candidates in the City of Starke and because it was not possible to perform a statistical analysis of those elections, see ¶ 8, the Court has relied, in part, on statistical evidence from non-city elections in reaching its conclusion of black political cohesion. The Court concludes that the election data from non-city elections is probative of whether black voters in Starke are politically cohesive and that the use of this data is appropriate in the circumstances of this case. See Solomon, slip op. at 746; Carrollton, 829 F.2d at 1556.

60. Second, the only statistical evidence the Court has considered is that which was derived from elections in which a black candidate ran for office. Defendants contend that reliance solely on elections in which a black candidate ran for office is inconsistent with Justice Brennan's plurality opinion in Gingles which states that it is the race of the voter rather than the race of the candidate which is the important concern. Gingles, 106 S.Ct. at 2776. The Court disagrees with Defendants' reading of Gingles and agrees with the Fifth Circuit's interpretation:

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<sup>23</sup> The following discussion concerning the statistical evidence applies with equal force to consideration of both political cohesiveness and racial polarization issues.



[W]e conclude that Gingles is properly interpreted to hold that the race of the candidate is in general of less significance than the race of the voter -- but only within the context of an election that offers voters the choice of supporting a viable minority candidate. For although the Supreme Court plurality in Gingles emphasizes the race of the voter over the race of the candidate, it upholds the trial court finding of vote dilution based upon analyses of only those elections in which blacks ran. Justice Brennan's plurality opinion is careful not to state that a black candidate is tantamount to the black preference; but implicit in the Gingles holding is the notion that black preference is determined from elections which offer the choice of a black candidate. The various Gingles concurring and dissenting opinions do not consider evidence of elections in which only whites were candidates. Hence, neither do we.

Citizens for a Better Gretna v. City of Gretna, Louisiana, 834 F.2d 496, 503-04 (5th Cir. 1987)(emphasis in original).<sup>24</sup>

<sup>24</sup> While there is no binding precedent directly addressing this issue, the Court's reading of Solomon supports its view that Defendants' evidence of "white vs. white" elections should be excluded from consideration. The Solomon Court, in discussing situations in which there was neither clear bloc voting nor clear non-bloc voting stated,

Between these extremes, however, will fall situations in which evidence of vote polarization and minority electoral failure is either inconclusive, insufficient, or unavailable due to a lack of minority candidacies. In these cases, the courts must rely on the full range of totality of circumstances inquiries to determine whether the challenged electoral system violates the Act.

Solomon, slip op. at 740 (emphasis added). Thus, Solomon focused directly on elections in which minorities offered themselves as candidates. The possible reliance on the "totality of circumstances" refers to the factors drawn from Gingles and the Senate Report and does not include consideration of elections in which just whites ran for office. See supra Section II. It must finally be noted that the Solomon Court did consider evidence of a few elections which did not involve a black candidate. These

Regardless of the propriety of considering data from "white vs. white" elections in general, the Court would not credit the "white vs. white" evidence offered by Defendants in this case in any event because, as is more fully discussed above at ¶¶ 29-32, that evidence was based on a non-random, skewed sample of data.

C. Racial Bias

61. The final two elements Plaintiffs must prove are that the discriminatory effect of Starke's at-large electoral system is caused by racial bias in the community or its political system and that such bias will continue to prevent the Plaintiffs from having equal access to the political process. Solomon, slip op. at 741. To determine if Plaintiffs have met their burden, the Court may consider all the factors set out in Gingles. Under Gingles, however, the most probative indicator of vote dilution is evidence of white bloc voting. If the evidence "clearly establishes that whites, voting as a bloc, will probably defeat blacks voting as a bloc plus white crossovers, then the court may infer, solely from this evidence, both that the current system is driven by racial bias and that this bias is likely to dominate the challenged election." Solomon, slip op. at 740.

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elections were not simply any "white vs. white" elections in the jurisdiction, however, but were "a group of elections that revolved around racial issues or themes." Id. at 744. In this case, neither party has presented any evidence of elections involving only white candidates which they contend revolve around "racial issues or themes." In the absence of this special subset of "white vs. white" elections, the Court concludes that Solomon supports the exclusion of elections in which no black candidate ran for office.



62. Upon review of all the evidence, the Court concludes that legally significant racially polarized voting exists in the City of Starke. The Court draws its conclusion from the statistical evidence presented by Dr. Lichtman which demonstrates that Starke's black voters generally give overwhelming support to black candidates and that Starke's white voters rarely give black candidates more than minimal support. See supra ¶¶ 17-21, 24-26 and footnote 12. On average, in the ten elections studied in which black candidates participated, the white crossover vote (the whites who voted for the black candidate) was 10.3% of the total white vote.<sup>25</sup> In terms of the total vote, white crossover vote averaged 7.6%.<sup>26</sup> Thus, even if the votes of all blacks (26% of the voting age population) were combined with the average white crossover vote of 7.6%, the black candidate will always be defeated by the opposing white bloc vote which represents 66.4% of the total vote. The accuracy of Dr. Lichtman's analysis is borne out by the actual election experience in Starke as a black candidate has never been able to win election to any City office despite receiving overwhelming support from black voters.

63. Although the Court believes its conclusion with respect to racially polarized voting conclusively shows that Plaintiffs have carried their burden with respect to the racial bias ele-

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<sup>25</sup> In the three City Commission elections in which a black candidate ran for office, Dr. Lichtman projected the average white crossover vote to be 16.8%.

<sup>26</sup> Whites comprise 74% of the City of Starke. 10.3% of 74% is 7.6%.

ment, the Court notes that corroborating evidence of racial bias can be found in examining the other Gingles factors. As is more fully detailed in ¶¶ 42-53 above, no black has ever been elected to office in Starke, past discrimination against blacks by the City has occurred and electoral devices in addition to the at-large voting, such as the majority vote requirement and the absence of single shot voting, reduce the opportunity for black citizens to get elected to positions in city government.

64. This same racial bias evidence, drawn from the experience in the City of Starke over the period of many years, leads the Court to the conclusion that Starke's at-large voting system will continue to deny blacks equal access to the City's political process. Plaintiffs, therefore, have proven the fourth and final element of their §2 claim.

#### V. CONCLUSION

65. Plaintiffs have proven their §2 vote dilution claim by establishing that black citizens of the City of Starke are under-represented in proportion to their percentage of the total electorate, that they are sufficiently geographically and politically cohesive to allow the creation of a single-member district in which they would constitute a majority, that the at-large election system currently in place in Starke is driven by racial bias and that the at-large system will continue to deny them equal access to the City's political process. Based on these findings the Court concludes that the at-large election system used to

elect the Starke City Commission operates in a manner which violates Section 2 of the Voting Rights Act.

66. The parties are directed to file submissions within thirty (30) days as to how the Court should proceed to determine the appropriate remedy.

IT IS SO ORDERED.

DONE and ORDERED at Tampa, Florida, this 27<sup>th</sup> day of February, 1989.

*William H. Hoken*

UNITED STATES DISTRICT JUDGE