

City of Dunnellon  
Agenda Summary Form

**Meeting Date:**

1. Responsible Department: Public Works, Parks & Recreation
2. Presenter: Troy Slattery, Public Works Manager
3. Recommended Action: Authorize the Mayor to sign Agreement #AGR2022-16 with Central Florida Pole Barns for the installation of two shade pavilions at City Beach

**Subject:** Agreement #AGR2022-16 Central Florida Pole Barns

**Summary Explanation & Background:**

Staff made a request for offers from prospective contractors, as per Purchasing Policy requirements. On April 11, 2022, staff reported to Council a contractor had been selected to construct the two shade pavilions for a total cost of \$22,000 and a request was made to move forward with the project. Council voted unanimously to authorize staff to move forward with the project. As a result, the contractor, Central Florida Pole Barns, presented the City with a construction contract. The proposed contract has been reviewed by staff and by the City Attorney for legal sufficiency.

**Procurement Method: Request for Offer from Prospective Contractors per Purchasing Policy Requirements**

**Fiscal Information: Funding for this project in the amount of \$30,000 is included in FY2021-2022 budget**

**Attorney Review: Yes**

# POLE BARN CONSTRUCTION CONTRACT #AGR2022-16

THIS CONSTRUCTION CONTRACT (the "Contract") is dated May 9, 2022 .

Between City of Dunnellon of 20750 River Drive Dunnellon, FL 34431 (the "Client") and Central Florida Pole Barns LLC of 23228 Jacobson Rd, Brooksville, FL 34601 (the "Contractor").

## BACKGROUND

- A. The client is of the opinion that the Contractor has the necessary qualifications, experience, and abilities to provide services to the Client.
  - B. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this contract.
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**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Contract, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to the Contract) agree as follows:

## SERVICES PROVIDED

- 1. The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services")
  - a. Supply all materials needed to construct the pole barn described below and drawn out on Addendum A of the Contract:

- (1) 22x20x10 open-air pole barn with 29-gauge color roof and trim and 6x6 posts
    - (1) 20x15x10 open-air pole barn with 29-gauge color roof and trim and 6x6 posts
  - i. Client releases the Contractor from supplying the following materials and as a result agrees to supply these materials themselves. The Client also agrees to have the materials available and accessible to the Contractor on the scheduled installation date. If the Client fails to meet this obligation, it is understood that the Client will be charged a penalty no greater than 5% of the total contract amount to compensate the Contractor for lost sales from delayed production. The materials the Client is supplying are described as follows:

N/A
- b. Install the pole barn described above in its entirety at ( ) the same address listed above or (X) the alternative address of 12100 Palmetto Court Dunnellon, FL 34432 . The specific location of the pole barn on the described property will be determined and staked out when the initial site visit is performed by the Parties.
  - i. The Client agrees to have the site prepped including but not limited to the clearing of all trees and debris that obstruct the build location; the removal of any fences or other object that block entry access to the build location; leveling the build site as necessary; any other items discussed and agreed upon during the initial site visit. It is understood that these site preparations will be the sole financial responsibility of the Client. If the Client fails to meet this obligation, it is understood that the Client will be charged a penalty no greater than 5% of the total contract amount to compensate the Contractor for lost sales from delayed production.

## COMPENSATION

1. The Contractor will charge a flat fee of \$ 21,535.00 for the Services (the "Compensation").
2. A deposit of \$ 11,000.00 (the "Deposit") is payable by the Client to the Contractor upon execution of this Agreement.
3. For the remaining amount, the Client will be invoiced as follows:
  - a. \$ 10,535.00 will be due immediately upon completion of the Services.
4. Invoices submitted to the Client by the Contractor are due upon receipt.
5. The above Compensation includes all applicable delivery fees as well as all sales tax and duties as required by law.

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## ADDITIONAL FEES

1. If the Client requires building plans the Contractor will provide plans for an additional fee of \$500. Check one of the following:
  - a.  I will require plans for the pole barn being installed. I understand that an additional fee of \$500 is included in my Contract price.
  - b.  I do not need plans for my pole barn.
2. Permit fees vary by county and are not included in the sale price of the barn. If the Client requires a permit the Client has the option to pull the permit themselves and pay the county directly or have the Contractor pull the permit for an additional fee. Check one of the following:
  - a.  A permit will be required for the building to be installed. I, the Client, will pull the permit and pay any associated fees directly. I agree to notify the Contractor once the permit has been received.
  - b.  A permit will be required for the building to be installed. I, the Client am requesting that the Contractor pull the permit on my behalf. I understand that the cost of the permit is included in the Contract price.
  - c.  A permit is not required for the building being installed. I understand that the Contractor is not responsible for determining whether a permit is required or not and that it is my (the Client's) sole responsibility to verify all permitting requirements before having the building installed on my property. The Contractor will not be held liable for any fines or fees assessed by the county for permitting issues.

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3. The Contract price is agreed upon under the assumption that there is no debris underground obstructing the ability to dig the holes required for the installation of the barn. The Client understands that if obstructions including, but not limited to, concrete or large tree roots are discovered at the time of digging the holes, an additional fee of \$50 per hole plus the cost of any equipment needed will be added to the final invoice.

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4. The Contract price is agreed upon under the assumption that the water table is at minimum 6 feet below the surface level. The Client understands that if water is discovered at the time of digging the holes, an additional fee of \$50 per hole plus the cost of any additional materials needed will be added to the final invoice.

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5. Additional fees may be assessed at the time of the site visit.

#### **PERMITTING DISCLOSURE**

1. The Contractor has no control over permitting and cannot be held responsible for delays during the permitting process.
2. The Client understands that permits can be denied by the county for various reasons. In the event that the county denies a permit application, the Contract will be considered voided, and the initial deposit will be due back to the Client within ten days.
3. In the event that the county requires changes to be made to the building, in order for the permit to be approved, the Parties, at their own discretion can choose to void the contract or amend it.

#### **NOTICE OF SITE VISIT**

1. The Contractor will perform a site visit at the installation location before materials for the product are ordered. The purpose of the site visit is to meet with the Client, review the Contract, identify potential issues and work with the Client to determine resolutions.
2. A Site Visit report will be provided to the Client and will require the Client's signature. The signed Site Visit Report will serve as Addendum B to the Contract.

#### **CLIENT RESPONSIBILITY**

1. It is the Client's responsibility to provide a safe working environment for the Contractor. The Client agrees to restrain all animals from the build site until construction is finalized. The Client also agrees to remove any hazards from the build site prior to the Contractor's arrival.
2. The Client agrees to remain away from the build site until the construction is finalized. The Contractor cannot be held responsible for injuries or damages sustained by the Client or any authorized or unauthorized individuals on the Client's property that are not attributable to Contractor's negligence or intentional tortious acts.
3. The Client agrees to remain off any equipment belonging to the Contractor while it is being stored at the build site.
4. The Contractor (including delivery drivers) must be able to gain access to the build site in order to provide the Services. The Client agrees that access will be available until construction is finalized. If the Client fails to meet this obligation, a fee of \$100 per hour will be assessed while the Contractor or its delivery drivers are waiting for access to the build site.

#### **INSTALLATION DATE**

1. It is the intention of the Contractor to begin construction within 4 weeks of the permit being received. If a permit is not required, it is the intention of the Contractor to begin construction within 4 weeks of the deposit being received.
2. The installation date will remain flexible throughout the term of this Contract. The Client understands that there are many factors that are out of the Contractor's control, including but not limited to, material availability, equipment breakdowns and weather delays. The Contractor cannot be held liable for any delays that are reasonably considered to be out of the Contractor's control.

#### **GENERAL TERMS AND CONDITIONS**

1. **TERM OF CONTRACT** – The term of this Contract (the "Term") will begin on the date of this Contract and will remain in full force and effect until the completion of the Services, and the receipt of all funds due to the Contractor for the completion of said Services.
2. **PERFORMANCE** – The Parties agree to do everything necessary to ensure that the terms of this Contract take effect.

3. **CURRENCY** – Except as otherwise provided in this Contract, all monetary amounts referred to in this Contract are in USD (US Dollars).
4. **REMIMBURSEMENT OF EXPENSES** – The Contractor will be reimbursed from time to time for reasonable and necessary expenses incurred by the Contractor in connection with providing the Services. \*\*All expenses must be pre-approved by the Client.
5. **INTEREST ON LATE PAYMENTS** – Interest payable on any overdue amounts under this Contract is charged per Florida’s Prompt Payment Act.
6. **CONFIDENTIALITY** – Confidential information (the “Confidential Information”) refers to any and all data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, personal information, financial information, site location information (gate codes, access points, etc.), or any other information that could reasonably be expected to cause harm to the Client.
  - a. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, and Confidential Information which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination of this Contract.
  - b. The Contractor shall maintain public records required by the Client to perform the services.

Upon request from the Client’s custodian of public records, the Contractor shall provide the Client 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 Chapter 119, Florida Statutes or as otherwise provided by law.

The Contractor shall 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 Contractor does not transfer the records to the Client.

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

**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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK’S OFFICE  
CITY OF DUNNELLON  
20750 RIVER DRIVE  
DUNNELLON, FL 34431**

7. **OWNERSHIP OF INTELLECTUAL PROPERTY** – All intellectual property and related material (the “Intellectual Property”) that is developed or produced under this Contract, will be the property of the Contractor. The Client is granted a non-exclusive limited-use license of this Intellectual Property. Title, copyright, intellectual property rights and distribution rights of the Intellectual Property remain exclusively with the Contractor.
8. **CAPACITY/INDEPENDENT CONTRACTOR** – In providing the Services under this Contract it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and Client acknowledge that this Contract does not create a partnership or joint venture between them and is exclusively a contract for service. The Client is not required to pay or make any contributions to any social security, local, state, or federal tax, unemployment compensation, workers’ compensation, insurance premium, or any other employee benefit to the Contractor during the Term. The Contractor is responsible for paying, and complying with reporting requirements for all local, state, and federal taxes related to payments made to the Contractor under this Contract.
9. **RIGHT OF SUBSTITUTION** – Except as otherwise provided in this Contract, the Contractor may, at the Contractor’s absolute discretion, engage a third-party sub-contractor to perform some or all of the obligations of the Contractor under this Contract and the Client will not hire or engage any third parties to assist with the provisions of Services. In the event the Contractor has hired a sub-contractor, the Contractor will pay the sub-contractor for its services and the Compensation will remain payable by the Client to the Contractor. For the purposes of the indemnification clause of this Contract, the sub-contractor is an agent of the Contractor.
10. **AUTONOMY** – Except as otherwise provided in this Contract, the Contractor will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with the Contract. The Contractor will work autonomously and not at all the direction of the Client. However, the Contractor will be responsive to the reasonable needs and concerns of the Client.
11. **EQUIPMENT** – Except as otherwise provided in this Contract, the Contractor will provide at the Contractor’s own expense, any and all tools, machinery, equipment, raw materials, supplies, workwear and any other items or parts necessary to deliver the Services in accordance with the Agreement.
12. **NOTICE** – All notices, requests, demands or other communications required or permitted by the terms of this Contract will be given in writing and delivered to the Parties at the email and/or mailing address provided by the Parties in this Contract and will be deemed to be properly delivered (a) immediately upon being served personally, (b) three days after being deposited with the postal service if served by registered mail, (c) the following day after being deposited with an overnight courier, or (d) immediately after being sent by the sender to the recipient’s email address provided.
13. **INDEMNIFICATION** – Except to the extent paid in settlement from any applicable insurance policies, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, expenses, reasonable legal fees and costs of suit, which result from or arise out of any act or omission of the indemnifying party, its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Contract. This indemnification will survive the termination of this Contract. The foregoing indemnification provided by Client shall not constitute a waiver of sovereign immunity and Client’s indemnification shall be limited to \$200,000 for a single claim and \$300,000 for multiple claims arising out of the same incident, which limitations shall apply whether the underlying action sounds in contract or tort.

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14. **MODIFICATION OF CONTRACT** – Any amendment or modification of this Contract or additional obligation assumed by either Party in connection with this Contract will only be binding if evidence in writing signed by each Party or an authorized representative of each Party.
  15. **ASSIGNMENT** – The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Contract without prior written consent of the Client.
  16. **ENTIRE AGREEMENT** – It is agreed that there is no representation, warranty, collateral agreement, or condition affecting this Contract except as expressly provided in this Contract.
  17. **GOVERNING LAW** – This Contract will be governed by and construed in accordance with the laws of the state of Florida. Venue for any action hereunder shall lie in Marion County, Florida.
  18. **SERVABILITY** – In the event that any of the provisions of this Contract are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Contract.
  19. **WAIVER** – The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Contract by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.
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This contract is considered to be executed upon signing by both Parties.

William P. White, Mayor  
Printed Name of Client Signing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

352-208-9021  
Phone #

tslattery@dunnellon.org  
Email Address

20750 River Driver  
Notice Address (Street)

Dunnellon, FL 34432  
City, State, Zip

Glenn Staub  
Printed Name of Contractor Principal

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

904-386-1315  
Phone #

glennstaub@gmail.com  
Email Address

23228 Jacobson Road  
Notice Address (Street)

Brooksville, FL 34601  
City, State, Zip