

**FIFTH AMENDMENT TO AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
WINGFOOT COMMERCIAL TIRE SYSTEMS, INC.
FOR PURCHASE OF TIRES AND TIRE SERVICES
(UTILIZING STATE OF FLORIDA CONTRACT # 863-000-10-1)**

THIS FIFTH AMENDMENT to Agreement is made and entered into in duplicate this 23 day of May, 2014 (hereinafter the "Effective Date"), by and between the CITY OF JACKSONVILLE, a municipal corporation existing under the Constitution and the laws of the State of Florida (hereinafter the "CITY"), and WINGFOOT COMMERCIAL TIRE SYSTEMS, INC., a foreign corporation with principal office at 1000 21st Street, Fort Smith, Arkansas 72901 (hereinafter the "Contractor"), for purchase of tires and tire services (hereinafter collectively the "Equipment").

RECITALS:

WHEREAS, effective July 1, 2009 through February 29, 2012, with a first renewal from March 1, 2012 through April 1, 2012, a second renewal from April 1, 2012 through April 30, 2012, a third renewal from May 1, 2012 through April 30, 2013, a fourth renewal from May 1, 2013 through April 30, 2014, and a final renewal from May 1, 2014 through February 27, 2015, the State of Florida ("State"), by and through its Department of Management Services, entered into Contract Number 863-000-10-1 (hereinafter the "State Contract") with various tire and tire services vendors, including Contractor; and

WHEREAS, said State Contract is in full force and effect until February 27, 2015, and has been competitively procured and awarded by the State under Invitation to Bid # 18-863-000-S; and

WHEREAS, pursuant to Section 126.211, *Ordinance Code*, the parties have made and entered into City of Jacksonville Contract # 9658 (the "Agreement") using the State Contract for the purchase of tires and tire services; and

WHEREAS, it is in the best interests of the parties to use the State Contract for the purchase of the Equipment; and

WHEREAS, the State Contract is broad enough to include the Equipment the City wishes to purchase and the Contractor has agreed to allow the City to use the aforementioned State Contract; and

WHEREAS, said Agreement has been amended four times previously; and

WHEREAS, said Agreement should be amended by extending the term of said Agreement to February 27, 2015, and by adding funding in an amount not to exceed \$895,000.00 for a new maximum monetary amount not to exceed \$2,918,370.00, with all other provisions, terms, and conditions of said Agreement remaining unchanged; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained and for other good and valuable consideration, the parties agree to amend said Agreement as follows:

1. **Incorporation of Recitals:** The above-stated recitals are accurate, true, and correct and are made a part hereof and are incorporated herein by this reference.
2. Article 4 entitled "Duration of Agreement/Pricing Available to Other Entities" in said Agreement is amended in part by extending the term of the Agreement to February 27, 2015, and as amended shall read as follows:

"ARTICLE 4: Duration of Agreement/Pricing Available to Other Entities:

The term of this Agreement shall commence on the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein through a period of time commencing with the Effective Date through February 27, 2015, unless sooner terminated as provided in **Composite Exhibit 1**. During said period of time, the purchase of the Equipment from Contractor provided hereunder and under the State Contract shall be available to all using

agencies and other political subdivisions, boards, agencies, or authorities existing in Duval County that may desire to purchase the same at the contract prices provided in said State Contract.”

3. Section 5.2 in said Agreement is amended in part by increasing the maximum contract price by \$895,000.00 to a new maximum not-to-exceed \$2,918,370.00 and, as amended, shall read as follows:

“Article 5: Payments for Services of Contractor.

Notwithstanding any contrary provision in **Composite Exhibit 1**, the maximum indebtedness of the CITY for all fees, reimbursable items, surcharges, or other costs for the Equipment sold by Contractor pursuant to this Agreement shall not exceed the sum of TWO MILLION NINE HUNDRED EIGHTEEN THOUSAND THREE HUNDRED SEVENTY AND NO/100 USD (\$2,918,370.00); *provided however*, for encumbrance purposes, the above specified maximum indebtedness shall not be encumbered herein, but shall be encumbered by a subsequent purchase order containing a specific maximum indebtedness and for which all fund control checking and examinations will be made by the CITY.”

3. **Savings Clause.** Save and except as expressly amended in and by this instrument, the provisions, terms, and conditions of the Agreement (City of Jacksonville Contract # 9658), as previously amended, shall remain unchanged and shall continue in full force and effect.

[Remainder of page left intentionally blank. Signature page follows immediately.]

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE:

By James R. McCain, Jr.
Corporation Secretary



By Alvin Brown
Mayor

Encumbrance & funding information, Director of Finance Certification and OGC form approval are on the next page.

ATTEST:

WINGFOOT COMMERCIAL
TIRE SYSTEMS, INC.
dba Goodyear Commercial Tire
& Service Centers

By Paul E. Gage
Signature
Paul E. Gage
Type/Print Name
Manager, Retread & Government Sales
Title

By Todd M. Tyler
Signature
Todd M. Tyler
Type/Print Name
Vice-President, Operations
Title



Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

Encumbrance and funding information for internal City use:

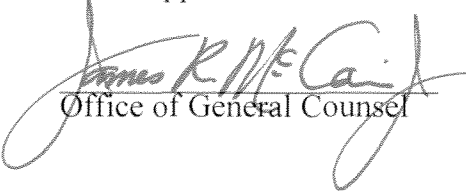
Account..... PURCHASE ORDER[S]
Amount..... \$895,000.00
Total..... \$3,048,000.00 \$2,918,370.⁰⁰

This above stated amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by a subsequently issued Purchase Order that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Order is issued.

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance shall be made by subsequent purchase order, as specified in said Contract.


C. Ronald Belton, Director of Finance
City Contract #9658, Amendment #5


Form Approved:


Office of General Counsel