

EIGHTH AMENDMENT TO AGREEMENT FOR FINANCIAL CONSULTING SERVICES

THIS EIGHTH AMENDMENT TO AGREEMENT FOR FINANCIAL CONSULTING SERVICES ("Eighth Amendment") is entered into by and between CITY OF OCALA, a Florida municipal corporation ("City"), and DUNLAP & ASSOCIATES, INC., a for-profit corporation duly organized and authorized to do business in the State of Florida (EIN# 59-3328233) ("Consultant").

WHEREAS, on March 1, 2015, City and Consultant entered into a Renewal Agreement with Dunlap & Associates, Inc. for Financial Consulting Services (the "Original Agreement"), a copy of which is attached hereto as **Exhibit A**, for a term of one year from April 1, 2015 through March 31, 2016; and

WHEREAS, on April 19, 2016, City and Consultant entered into Amendment #3 – Renewal Financial Consulting Services ("Third Amendment") to renew the Original Agreement for a term of two (2) years from April 2, 2016 through April 1, 2018; and

WHEREAS, on March 16, 2018, City and Consultant entered into a Fourth Amendment of Agreement for Financial Consulting Services ("Fourth Amendment") for a term of one (1) year from April 2, 2018 through April 1, 2019; and

WHEREAS, on February 7, 2019 the City and Consultant entered into a Fifth Amendment of Agreement for Financial Consulting Services ("Fifth Amendment") for a term of one (1) year from April 2, 2019 and expiring on April 1, 2020; and

WHEREAS, on April 3, 2020, City and Consultant entered into a Sixth Amendment to Agreement for Financial Consulting Services ("Sixth Amendment") for a term of one (1) year commencing on April 2, 2020 and expiring on April 1, 2021; and

WHEREAS, on March 18, 2021, City and Consultant entered into a Seventh Amendment to Agreement for Financial Consulting Services ("Seventh Amendment") for a term of one (1) year commencing on April 2, 2021 and expiring on April 1, 2022; and

WHEREAS, City and Consultant desire to extend the Original Agreement, as amended, for an additional one (1) year renewal period.

NOW THEREFORE, in consideration of each of the foregoing recitals and the following mutual covenants, conditions and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, City and Consultant agree as follows:

1. **RECITALS.** City and Consultant hereby represent and warrant that the Recitals set forth above are true and correct.



2. **INCORPORATION OF ORIGINAL AGREEMENT.** The Original Agreement between City and Consultant is hereby incorporated by reference as if set forth herein in its entirety and remains in full force and effect, except for those terms and conditions expressly amended by this Eighth Amendment.
3. **RENEWAL TERM.** The Original Agreement is hereby renewed for an additional **ONE (1) YEAR** term beginning **APRIL 2, 2022** and terminating **APRIL 1, 2023**. Thereafter, the parties acknowledge and agree that there remains the option for the Original Agreement to be renewed for additional periods upon written agreement between the parties.
4. **NOTICES.** All notices, certifications or communications required by this Eighth Amendment shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Consultant:

Dunlap & Associates, Inc.
Attn: J. Craig Dunlap, President
16680 Lake Pickett Road
Orlando, Florida 32820
Email: jcdunlap@dunlapandassociates.com
PH: 352-304-3921

If to City of Ocala:

Tiffany L. Kimball, Contracting Officer
City of Ocala, City Hall
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
PH: 352-629-8366 FAX: 352-690-2025
Email: tkimball@ocalafl.org

Copy to:

Robert W. Batsel, Jr.
Gooding & Batsel, PLLC
1531 SE 36th Avenue
Ocala, Florida 34471
PH: 352-579-6536
Email: rbatsel@lawyersocala.com



5. **COUNTERPARTS.** This Eighth Amendment may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
6. **ELECTRONIC SIGNATURE(S).** Contractor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Eighth Amendment. Further, a duplicate or copy of the Eighth Amendment that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Eighth Amendment for all purposes.
7. **LEGAL AUTHORITY.** Each person signing this Eighth Amendment on behalf of either party individually warrants that he or she has full legal power to execute this Eighth Amendment on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Eighth Amendment.

IN WITNESS WHEREOF, the parties have executed this Eighth Amendment on 03 / 08 / 2022.

ATTEST:

CITY OF OCALA

Angel B. Jacobs

Angel B. Jacobs
City Clerk

Bill Kauffman

Bill Kauffman
Assistant City Manager/CFO

Approved as to form and legality:

DUNLAP & ASSOCIATES, INC.

Robert W. Batsel, Jr.

Robert W. Batsel, Jr.
City Attorney

J. Craig Dunlap

J. Craig Dunlap
President

**RENEWAL AGREEMENT WITH DUNLAP & ASSOCIATES, INC.
FOR FINANCIAL CONSULTING SERVICES**

THIS AGREEMENT, entered into this 1st day of April, 2015, by and between the City of Ocala, Florida, hereinafter referred to as "Client" and Dunlap & Associates, Inc. hereinafter referred to as "Consultant".

WHEREAS, the Client desires assistance in financing and other areas of financial planning and management; and

WHEREAS, the Consultant is experienced in providing said services under the terms and conditions hereinafter set forth:

NOW, THEREFORE, the Client hereby retains the Consultant to provide financial consulting services for general obligation, capital improvement, electric, water and sewer, tax increment, community redevelopment and other financing requirements for the capital improvement plan, as well as related financial management matters, and in consideration of the covenants and conditions hereinafter contained, the parties hereto agree as follows:

I. SERVICES TO BE PERFORMED BY CONSULTANT

A. **Debt Issue Development and Sales Services.** The Consultant shall perform the following services for a debt offering (Issue) when authorized by the Client.

1. Planning and Development Phase

- a. Research and advise on aspects of tax exemption and arbitrage in cooperation with the Client's legal counsel and bond counsel. Assist in obtaining Internal Revenue Service rulings, if necessary.
- b. Assist in the preparation and analysis of feasibility studies in cooperation with City officials and administrative staff, bond attorneys, accountants, architects, engineers and other professionals as requested by the Client.
- c. Carefully analyze the financing to determine the best methods of strengthening its marketability consistent with current economic and capital market conditions and increasingly stringent rating agency criteria. This may involve the use of municipal bond insurance, surety bonds, letters of credit or other credit enhancement devices. A more thorough discussion of our credit enhancement services is presented later in this section.

Exhibit A

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- d. Perform a comprehensive analysis to determine the best possible plan of finance. Each issue will be analyzed on its merits, including a market test to determine its marketability. Assist in determination of method of sale. Coordinate selection of an underwriter, if a negotiated sale is selected.
- e. Consult with Moody's, Standard & Poor's and/or Fitch Investors Service with regard to the proposed financing and assist in obtaining the most favorable rating possible. Prepare Client thoroughly for all rating presentations and participate in those meetings.
- f. Provide assistance and recommendations with the selection of ancillary service providers such as registrar, trustee and printer.
- g. Act as liaison with bond counsel and coordinate other professionals providing information in connection with the proposed financing.
- h. Prepare a timetable of events for all concerned leading to the successful sale and delivery of an offering.
- i. Testify at validation hearings, as requested.

2. Marketing Phase

- a. Advise on the appropriate terms and conditions of the sale, including maturity schedule, underwriter discount, redemption provisions, interest rate bidding requirements and basis for award.
- b. Advise on the timing of the bond sale, taking into consideration such factors as changing economic conditions, current and projected market trends and convenience to the Client.
- c. Coordinate with bond counsel the preparation of authorizing resolutions and other documents involved in the sale of bonds or other methods of financing. The Consultant will also assist in publicizing the issue in advance with an Official Statement, Notice of Sale, Bid Forms and such other means necessary and advisable to develop nationwide public and institutional interest.
- d. Assist the Client in meeting full disclosure requirements and conforming to suggested guidelines when preparing the Official Statement either as an advisor or principal author.
- e. Distribute the Official Statement to potential purchasers of the Client's securities across the nation. Directly contact those lead underwriters

Exhibit A

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most likely to be syndicate managers. Maximize efforts to market the Client's debt issuance most effectively.

- f. Conduct informational meetings with the investment community, including investment bankers (dealers and dealer banks) and institutional investors (banks, bank holding companies, and insurance companies) in New York and elsewhere, if necessary, to establish bidding interest on this offering.
- g. Advertise the bond sale in nationally prominent financial publications, in addition to coordinating local publication requirements.
- h. Attend the bid opening to assist with the verification and evaluation of bids and recommend the most favorable bid for award.

3. Bond Closing Phase

- a. Direct bond closing details, including coordination with bond counsel in order to ensure delivery in the shortest possible time frame.
- b. Furnish reinvestment analyses for the investing of bond proceeds and assist staff and architects/engineers in the drawdown of funds.
- c. Direct, coordinate and supervise preparation of the transcript and provide the Client with bond and interest records showing required semi-annual payments and other information relevant to the completed financing.
- d. Solicit bids on investment of idle funds, if requested.

B. **Work Products.** The Consultant shall provide the following work products for each competitive and negotiated debt offering.

- 1. Preliminary Official Statement (Competitively Sold Issues)
- 2. Final Official Statement (Competitively Sold Issues)
- 3. Official Notice of Bond Sale (Competitively Sold Issues)
- 4. Such other analyses, cash flow projections and materials necessary for financial planning and bond sale purposes.

C. **Other Services**

- 1. Assist the Client in meeting arbitrage regulations, including preparation of arbitrage rebate calculations.

II. FEES FOR SERVICES PERFORMED

- A. Debt Issuance Development and Sales Services Fees. For the performance of services in Sections I.A. and I.B., the Consultant shall be compensated on the basis of the fee schedule shown in Appendix A.
1. Printing Costs. The fee schedule in Appendix A does not include printing of Official Statements and bond certificates.
 2. Out-of-Pocket Expenses. The fee schedule in Appendix A does not cover miscellaneous issuance costs and consultant out-of-pocket expenses related to bond issues. Out-of-pocket expenses will not exceed \$2,000 for each financing, excluding out-of-state travel which will be billed at cost. All out-of-pocket expenses shall be documented and accounted for, and records of same shall be made available to Client upon request.
- B. Fees for other services performed. Fees for the performance of services in Section I.C. will be negotiated by the Client and Consultant.
- C. Fiduciary Duty and other income. Consultant acknowledges that it owes the Client a fiduciary duty in its representation of Client. Accordingly, Consultant shall disclose any and all conflicts it may have representing Client where such conflict could potentially affect the Client's financial advantage when providing assistance in bond and note financings and other areas of financial planning and management. Additionally, Consultant shall disclose all sources of additional income derived from the services contracted for herein that are not specifically identified in Appendix A.
- D. For any special projects authorized by the City, which are not intended to result in the issuance of bonds, we would propose to be compensated based upon the following hourly rates:
- | | |
|-------------------------------------|-------|
| President and Senior Vice President | \$145 |
| Vice President | \$120 |
| Assistant Vice President | \$95 |
| Clerical | \$40 |
- E. Negotiation of Fee. Any specific arrangements regarding fees not covered by this agreement may be negotiated by the Client and Consultant.

III. ASSIGNMENT OF CONSULTANT PERSONNEL

- A. The services to be provided by the Consultant shall be provided by J. Craig Dunlap, President and Sylvia Dunlap, Senior Vice President, of Dunlap &

Exhibit A

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Associates, Inc. who may, however, ask other consultant personnel to assist him in the performance of the services.

- B. Changes in Staff. The Consultant will advise the Client not less than thirty (30) days in advance of any proposed changes in the Consultant's staff assignment to enable the Client opportunity to discuss such proposed changes with the Consultant.

IV. TERM OF AGREEMENT

The term of this Agreement shall commence upon execution of this Agreement, and shall continue for one (1) year from the date thereof. This Agreement may be terminated by the Client at any time during the term with or without cause upon thirty (30) days written notice to the Consultants. Any fees due the Consultant shall be determined as of the date of termination of the agreement.

V. ATTORNEY'S FEES

If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party.

VI. INDEPENDENT CONTRACTOR

Consultant shall act as an independent contractor, maintaining complete control over its' employees, agents and subcontractors. Consultant shall be fully responsible for the work and services provided for or performed by its' employees, agents and subcontractors.

VII. RELATIONSHIP OF PARTIES

Neither this Agreement, nor any term, provision, payment or right hereunder shall in any way or for any purpose constitute or cause City to become or be deemed a partner of Vendor in the conduct of its business, or otherwise, or to cause City to become or be deemed a joint adventurer or a member of a joint enterprise with Vendor, as City is and shall remain an independent contractor by reason of this Agreement.

VIII. TERMINATION

If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-defaulting party may, at its option, terminate this Agreement by giving written notification thereof to the other party. Termination of this Agreement shall have no effect upon the rights of the parties that accrued prior to termination.

IX. REMEDIES

If any Event of Default occurs, City shall have the right, at the option of City, to pursue all remedies available at law or equity, including the termination of this Agreement and all rights of Vendor hereunder. Notwithstanding City's termination of the Agreement, Vendor shall remain liable to City for all claims for damages, costs or attorneys' fees arising prior to such termination.

X. NOTICES

All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to:

J. Craig Dunlap, President
Dunlap and Associates, Inc.
1146 Keyes Avenue
Winter Park, FL 32789
Ph. 407-678-0977
Fax 407-678-6240

If to:

Tiffany L. Kimball, Director of Contracts
City of Ocala, City Hall
110 SE Watula Avenue
Ocala, FL 34471
Ph. 352-629-8366
Fax 352-690-2025

Copy to:

Patrick G. Gilligan, Esquire
Gilligan, Gooding, and Franjola P.A.
1531 S.E. 36th Avenue
Ocala, Florida 34471
Ph. 352-867-7707
Fax 352-867-0237

XI. JURY WAIVER

IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

XII. ASSIGNMENT

This Agreement shall not be assigned by either party without the prior written consent of the other party.

XIII. REFERENCE TO PARTIES

Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.

XIV. WAIVER

The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

XV. GOVERNING LAW

This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.

XVI. JURISDICTION AND VENUE

The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

XVII. RIGHTS OF THIRD PARTIES

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

XVIII. AMENDMENT

No amendment to this Agreement shall be effective except those agreed to in writing and signed by both of the parties to this Agreement.

XIX. SEVERABILITY OF ILLEGAL PROVISIONS

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.

XX. SECTION HEADINGS

The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

XXI. ENTIRE AGREEMENT

This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade

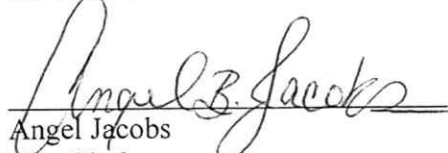
Exhibit A

CONTRACT# FIN/12-005

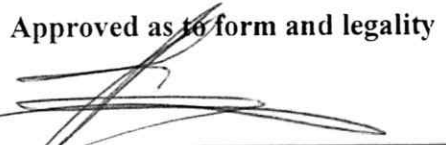
shall be relevant or admissible to supplement, explain, or vary any of the terms of this agreement. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to make objection. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

IN WITNESS WHEREOF, the parties have signed this contract as of the day and the year above written.


ATTEST:


Angel Jacobs
City Clerk

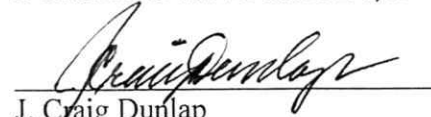
Approved as to form and legality


Patrick G. Gilligan
City Attorney

CITY OF OCALA:


Jay A. Musleh
President, Ocala City Council

DUNLAP & ASSOCIATES, INC.


J. Craig Dunlap
President, Dunlap & Associates, Inc.



ACCEPTED BY CITY COUNCIL
March 3, 2015
DATE
OFFICE OF THE CITY CLERK

APPENDIX A

FEES SCHEDULE

Our fee schedule is as follows:

\$1.00 per \$1,000 of bonds	–	First \$20 million of bonds issued
plus \$0.75 per \$1,000 of bonds	–	from \$20 million to \$40 million
plus \$.060 per \$1,000 of bonds	–	Bonds issued over \$40 million

A minimum fee of \$15,000 would be charged on each financing transaction and \$12,500 for bank loans.

We would propose that this fee schedule would apply to all types of financing arrangements sold at either competitive or negotiated sale, based upon our proposal to provide a full range of consulting services under all financing scenarios. These fees would be in effect for the duration of the contract period.

For investment services, Dunlap & Associates, Inc. will arrange for the competitive bidding of bond proceeds and other City funds and will be compensated by the successful bidder in an amount allowable under current treasury regulations.

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FILE NAME	For Signature - A... (FIN 12-005).pdf
DOCUMENT ID	f14ba293a4bf2d0dca42041961444fc6624703ba
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	• Signed

Document History



SENT

03 / 07 / 2022
13:15:42 UTC-5

Sent for signature to Robert W. Batsel, Jr. (rbatsel@lawyersocala.com), William Kauffman (wkauffman@ocalafl.org), Angel B. Jacobs (ajacobs@ocalafl.org) and J. Craig Dunlap (jcdunlap@dunlapandassociates.com) from plewis@ocalafl.org
IP: 216.255.240.104



VIEWED

03 / 08 / 2022
10:02:07 UTC-5

Viewed by Robert W. Batsel, Jr. (rbatsel@lawyersocala.com)
IP: 216.255.247.55



SIGNED

03 / 08 / 2022
10:03:43 UTC-5

Signed by Robert W. Batsel, Jr. (rbatsel@lawyersocala.com)
IP: 216.255.247.55



VIEWED

03 / 08 / 2022
10:30:01 UTC-5

Viewed by William Kauffman (wkauffman@ocalafl.org)
IP: 216.255.240.104





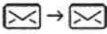



SIGNED

03 / 08 / 2022
10:30:13 UTC-5

Signed by William Kauffman (wkauffman@ocalafl.org)
IP: 216.255.240.104

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FILE NAME	For Signature - A... (FIN 12-005).pdf
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AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	• Signed

Document History

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 SIGNED	03 / 08 / 2022 10:32:50 UTC-5	Signed by Angel B. Jacobs (ajacobs@ocalafl.org) IP: 216.255.240.104
 EMAIL CHANGED	03 / 08 / 2022 10:33:17 UTC-5	jcdunlap@dunlapandassociates.com was changed to jcdunlap@dunlapandassociates.com after requester reassignment. IP: 216.255.240.104
 VIEWED	03 / 08 / 2022 10:34:36 UTC-5	Viewed by J. Craig Dunlap (jcdunlap@dunlapandassociates.com) IP: 107.72.178.92
 SIGNED	03 / 08 / 2022 10:42:46 UTC-5	Signed by J. Craig Dunlap (jcdunlap@dunlapandassociates.com) IP: 107.72.178.92
 COMPLETED	03 / 08 / 2022 10:42:46 UTC-5	The document has been completed.