


MEMORANDUM

DATE: June 1, 2022

TO: ****ORIGINAL****
City Clerk

FROM: Robyn Holder, CPPB 
Procurement Management Department

SUBJECT: Record Retention

CONTRACT: #20220067
CONTRACT TITLE: Noble Oaks Lane – Design-Build Contract

CONTRACTOR NAME: Holtz Consulting Engineers, Inc.
ADDRESS: 607 SW St. Lucie Crescent, Suite 103
CITY & STATE: Stuart, FL 34994

COUNCIL APPROVED: May 23, 2022

7d)- AWARD CONTRACT #20220067 FOR THE DESIGN BUILD OF THE NOBLE OAKLS
LANE LIFT STATION IN THE AMOUNT OF \$1,060,345.00, UTILITY SYSTEMS
DEPARTMENT, PROCUREMENT MANAGEMENT

CONTRACT AMOUNT - \$1,060,345.00
CONTRACT TERM: 390 CALENDAR DAYS, WITH NO OPTION TO RENEW.

**CITY OF PORT ST. LUCIE
CONTRACT #20220067**

This is Time and Expense Contract ("CONTRACT") executed this 31st day of May 2022 by and between the CITY OF PORT ST. LUCIE, a Florida municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City" party of the first part, and HOLTZ CONSULTING ENGINEERS, INC., 607 SW St. Lucie Crescent, Suite 103, Stuart, Florida 34994, Telephone (772) 919-4905, hereinafter called "Engineer," party of the second part.

RECITALS

In consideration of the below agreements and covenants set forth herein, the parties agree as follows:

WHEREAS, the Engineer is a Florida Corporation and is licensed in the State of Florida; and

WHEREAS, the City wishes to contract for Phase 1 of the Progressive Design Build for the design and construction of the lift station known as Noble Oaks estates as well as other tasks ("Work") more specifically described in this Contract and its attachments; and

WHEREAS, the Engineer or Design-Builder shall perform the design and construction services, and provide all material, equipment, tools and labor necessary to complete the Work described herein and reasonably inferable from the Contract; and

WHEREAS, the Engineer is selected on qualifications to perform Phase 1; and

WHEREAS, the Engineer will consult and contract with a contractor for the construction of the lift station pursuant to the Consultant Competitive Negotiations act, found in Chapter 287, Florida Statutes; and

WHEREAS, Engineer is qualified, willing and able to provide the Work on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this Contract with Engineer to perform the Work specified and, in an amount agreed to herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein name, the Parties agree as follows:

The Recitals set forth above are hereby incorporated into this Contract and made a part of hereof for reference.

**SECTION I
NOTICES**

All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person, sent by certified mail with return receipt request, email (with receipt confirmed), or fax and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

City Contract Administrator: Procurement Management Department
Shelby Dolan, Procurement Agent II
City of Port St. Lucie
121 SW Port St. Lucie, Blvd.
Port St. Lucie, FL. 34984
Telephone 772-873-6338 / Fax 772-871-7337
Email: sdolan@cityofpsl.com

City Project Manager: John Eason, Assistant Director
City of Port St. Lucie Utilities Department
900 SE Ogden Lane
Port St. Lucie, Florida 34983
Telephone: 772-873-6487
Email: jeason@cityofpsl.com

Engineer: Holtz Consulting Engineers, Inc.
Attn: Curtis Robinson, P.E.
607 SW St. Lucie Crescent, Suite 103
Stuart, Florida 34994
Telephone 772-919-4905 / Fax: 919-4909
Email: Curtis.robinson@holtzconsulting.com

SECTION II

DESCRIPTION OF SERVICES TO BE PROVIDED

The terms and conditions of contained in the Specific Authorization attached hereto as **Exhibit "A"** shall apply including all attachments, addenda and requirements are incorporated herein by this reference. In the event of a conflict between Exhibit "A" and this Contract, the terms of this Contract shall control.

Phase 1 Services - Preliminary or Preconstruction Services. The design-builder collaborates with the City to create or confirm the project's basis of design, and then advances that design. At the point in time where the design has achieved an appropriate level of definition that aligns with the owner's needs, the design-builder will provide a formal commercial proposal (including the overall contract price) for Phase 2 services. The proposal is often established when the design is approximately 40-60% complete, but it can occur anytime (including as late as 90-100% design completion), depending on the amount of control the owner desires to maintain over the design definition.

Phase 2 Services - Final Design and Construction Services. Once the City and design-builder agree upon commercial terms (including the project's price and schedule), the design-builder will complete the design and construction in accordance with those commercial terms. The design-builder will also be responsible for any testing, commissioning, and other services that have been agreed upon by both parties.

All specifications and materials shall be in accordance with the City of Port St. Lucie Utility Systems Department (PSLUSD) Design Standards and qualified products list (QPL), and as directed by the City's Project Manager.

The following is a detailed description of the engineering services to be provided.

SECTION 1 – SCOPE OF SERVICES

Project Management. The project management task includes contract administration, quality assurance/quality control (QA/QC), and project meetings with City staff.

Progress will be monitored, and resources and subcontractors will be managed to achieve the schedule, budget, and work quality goals of the project. The Engineer will coordinate with City staff and will keep City informed as to the status and progress of the project. Communications with the City will be conducted under this task.

The Engineer will conduct internal QA/QC review of the deliverables for conformance to contract and internal program requirements. The results of these reviews will be incorporated into the deliverables prior to submission to City for review and comment.

The Engineer will attend up to three (3) meetings total during the design phase of the project. These meetings are anticipated as follows:

1. One (1) design kick-off meeting and interview/discussions with City staff
2. One (1) preliminary design review meeting
3. One (1) final/complete submittal review meeting

SECTION 2 - DELIVERABLES

The following deliverables will be provided to City:

1. Meeting agendas and minutes.
2. Draft and final plans and technical specifications. Paper copies and digital copies in PDF, Microsoft Word and AutoCAD Version 2013 or later will be submitted.
3. Permit applications and supporting documentation with signed and sealed plans and applications.

SECTION 3 – SCHEDULE

Time periods to perform the professional services are estimated in the Exhibit "A" attached. At the conclusion of Phase 1, the Design Builder will submit a Guaranteed Maximum Pricing ("GMP") Proposal and a GMP Report. Unless the Parties agree otherwise, the GMP Proposal shall include the deliverables and the time limit for the Owner ~~to exercise its option to enter into Phase 2.~~

The City, in its sole discretion, may exercise its option to enter into Phase 2 of the Contract. If the City accepts the GMP proposal, the parties shall enter into a separate agreement reflecting their intent and purpose.

SECTION 4 – CITY’S RESPONSIBILITIES

To assist in meeting the schedule and budget estimates, City will provide the following:

1. Prompt review and comment on deliverables.
2. Attendance of key personnel at meetings.

SECTION III TIME OF PERFORMANCE

In the event all work required in the proposal specifications has not been completed by the specified date, the Engineer agrees to provide work, at no additional cost to the City as authorized by the Contract Supervisor until all work specified in the proposal specifications has been rendered and approved by the City.

SECTION IV RENEWAL OPTION

There are no renewals for this contract.

SECTION V COMPENSATION

This is a Time and Expense Contract per the Fee Schedule Table listed in the Specific Authorization.

Hourly Rates for additional services may be utilized, as determined by the City.

Hourly Rates, Lump Sum, and Fixed Fee amounts are to include all reimbursable expenditures, including travel, meals, copies and so forth.

Invoices for services shall be submitted once a month, by the 10th of the month, and payments shall be made net thirty (30) days unless Engineer has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made provided the submitted invoice is accompanied by adequate supporting documentation and approved by Project Manager as provided in Section XII.

The Engineer shall not be paid additional compensation for any loss or damage, arising out of the nature of the work, from the action of the elements, or from any delay or unforeseen obstruction or difficulties encountered in the performance of the work, or for any expenses incurred by or in consequence of the suspension or discontinuance of the work.

No payment for projects involving improvements to real property shall be due until Engineer delivers to City a complete release of all claims arising out of the Contract or receipts in full in lieu thereof, and an affidavit on his personal knowledge that the releases and receipts include labor and materials for which a lien could be filed.

All invoices and correspondence relative to this Contract must contain the Purchase Order number and Contract number.

In the event the City deems it expedient to perform work which has not been done by the Engineer as required by these Specifications, or to correct work which has been improperly and/or inadequately performed by the Engineer as required in these Specifications, all expenses thus incurred by the City, at the City's option, will be invoiced to the Engineer and/or deducted from payments due to the Engineer. Deductions thus made will not excuse the Engineer from other penalties and conditions contained in the Contract.

All invoices are to be sent to: Project Manager & APNOTIFICATIONS@CITYOFPSL.COM.

All payments not made within the time specified by this section shall bear interest from 30 calendar days after the due date at the rate of one (1) percent per month on the unpaid balance.

Taxes. Engineer is responsible for all federal, state, and local taxes and other charges related to the performance of this contracts.

SECTION VI **WORK CHANGES**

The City reserves the right to order work changes in the nature of additions, deletions or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the contract price and time for completion. All changes will be authorized by a written change order approved by the Procurement Department Director, or her designee. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the contract price resulting in a credit or a charge to the City shall be at cost. Any dispute concerning work changes which is not resolved by mutual agreement shall be decided by the City Manager who shall reduce the decision to writing. The decision of the City shall be final and conclusive.

SECTION VII **N/A**

SECTION VIII **SOVEREIGN IMMUNITY**

Nothing contained in this Contract shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

SECTION IX **INDEMNIFICATION/ HOLD HARMLESS**

The Engineer agrees to indemnify, defend, and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligent act, recklessness, or intentional wrongful misconduct of the Engineer and persons employed or utilized by the Engineer in the performance of the construction contract. This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the City's sovereign immunity.

SECTION X **INSURANCE**

The Engineer shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Engineer are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Engineer under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

1. Workers' Compensation Insurance & Employer's Liability: The Engineer shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. Should scope of work performed by Engineer qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

2. Commercial General Liability Insurance: The Engineer shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

3. Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance (should be ISO CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for mold, silica or respirable dust or bodily

injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interest's provision as provided under the standard ISO form separation of insurer's clause.

4. Professional Liability Insurance: The Engineer shall agree to maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, City reserves the right, but not the obligation, to review and request a copy of Bidders most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, bidder warrants the retroactive date equals or precedes the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, bidder shall agree to purchase a SERP with a minimum reporting period not less than three (3) years.

5. Automobile Liability Insurance: The Engineer shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Engineer does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Engineer to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability policy and Business Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read "City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and shall **Contract #20220067 Noble Oaks Lift Station** shall be listed as additionally insured." The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Engineer shall be required, upon thirty (30) calendar day's written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements including Completed Operations coverage shall be attached to the Certificate of Insurance. All independent contractors and subcontractors utilized in this project shall furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

6. Waiver of Subrogation: The Engineer shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Engineer shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a

condition to the policy specifically prohibits such an endorsement, or voids coverage should Engineer enter into such a Contract on a pre-loss basis.

7. Deductibles: All deductible amounts shall be paid for and be the responsibility of the Engineer for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the Engineer's most recent annual report or audited financial statement.

It shall be the responsibility of the Engineer to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements referenced above.

The Engineer may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A: VII or better.

A failure on the part of the Engineer to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the award.

SECTION XI **PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Engineer nor any subconsultant supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

SECTION XII **COMPLIANCE WITH LAWS**

The Engineer shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Engineer will comply with all requirements of 28 C.F.R. § 35.151. Contractors and subcontractors shall comply with § 119.0701, Fla. Stat. The Engineer and subcontractors are to allow public access to all documents, papers, letters, or other material made or received by the Engineer in conjunction with this Contract, unless the records are exempt from Art. I, § 24(a), Fla. Const. and § 119.07(1)(a), Fla. Stat. Pursuant to § 119.10(2)(a), Fla. Stat., any person who willfully and

knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in § 775.082 and § 775.083 Fla. Stat.

RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Engineer shall comply with Florida's Public Records Law. ENGINEER'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Engineer agrees to comply with all public records laws, specifically to:

Keep and maintain public records required by the City in order to perform the service;

1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
2. During the term of the contract, the Engineer shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Engineer's records under this Contract include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Engineer agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Engineer who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency 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.

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 Engineer does not transfer the records to the City.

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Engineer, or keep and maintain public records required by the City to perform the service. If the Engineer transfers all public records to the City upon completion of the contract, the Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Engineer keeps and maintains public records upon completion of the contract, the

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

CITY CLERK
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
(772) 871-5157
Email: pr@cityofpsl.com

SECTION XIII
ADDITIONAL REQUIREMENTS

In the event of any conflict between the terms and conditions, appearing on any purchase order issued relative to this Contract, and those contained in this Contract and the Specifications herein referenced, the terms of this Contract and Specifications herein referenced shall apply.

SECTION XIV
ASSIGNMENT

Engineer shall not delegate, assign or subcontract any part of the work under this Contract or assign any monies due him hereunder without first obtaining the written consent of the City.

SECTION XV
TERMINATION

Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Engineer in default of its obligations under the contract:

- I. The Engineer fails to deliver or has delivered nonconforming services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the contract, including, but without limitation, the express warranties made by the Engineer;
- II. The Engineer fails to make substantial and timely progress toward performance of the contract;
- III. In the event the Engineer is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the contract effective as of the date on which the license or certification is no longer in effect;

- IV. The Engineer becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Engineer terminates or suspends its business; or the City reasonably believes that the Engineer has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- V. The Engineer has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the contract;
- VI. The Engineer has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VII. The Engineer furnished any statement, representation or certification in connection with the contract, which is materially false, deceptive, incorrect or incomplete.

Notice of Default. If there is a default event caused by the Engineer, the City shall provide written notice to the Engineer requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Engineer. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- I. Immediately terminate the contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the contract and seek any legal or reasonable remedies; and/or
- III. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Engineer

Termination for Convenience. The City, in its sole discretion, may terminate this contract at any time without cause, by providing at least sixty (60) days' prior written notice to Engineer. Any such termination shall be accomplished by delivery in writing of a notice to Engineer. Following termination without cause, the Engineer shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the contract to the City up to the time of termination, pursuant to Florida law.

SECTION XVI

LAW, VENUE AND WAIVER OF JURY TRIAL

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken pursuant to this Contract shall be in St. Lucie County, Florida.

The Parties to this Contract hereby freely, voluntarily and expressly, waive their respective rights to trial by jury on any issues so triable after having the opportunity to consult with an attorney.

SECTION XVII

APPROPRIATION APPROVAL

The Engineer acknowledges that the City of Port St Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Engineer agrees that, in the

event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

SECTION XVIII **TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Section 287.055, Florida Statutes, the Engineer agrees to execute a truth-in-negotiations certificate and agrees that the original Contract price and any additions may be adjusted to exclude any significant sums by which the Contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

SECTION XIX **CONFLICT OF INTEREST**

The City hereby acknowledges that the Engineer may be performing professional services for private developers within the Treasure Coast area. Should a conflict of interest arise between providing services to the City and/or other clients, the Engineer shall terminate its relationship with the other client to resolve the conflict of interest. The City Manager shall determine whether a conflict of interest exists. At the time of each Project Proposal the Engineer shall disclose all of its Treasure Coast clients and related Scope of Work

SECTION XX **PROHIBITION AGAINST CONTINGENT FEES**

The Engineer warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

SECTION XXI **ATTORNEY'S FEES**

If this matter is placed in the hands of an attorney for collection, or in the event suit or action is instituted by the City to enforce any of the terms or conditions of the Contract, Engineer shall pay to the City, in such suit or action in both trial court and appellate court, the City's costs, and reasonable attorney's fees for the anticipated cost of collection and judgment enforcement.

SECTION XXII **POLICY OF NON-DISCRIMINATION**

Engineer shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Engineer shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or

Design Build Lift Station
Noble Oaks Estates

mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION XXIII
SEVERABILITY

The Parties to this Contract expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body. If any provision of this Contract is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Contract) and the remainder of this Contract, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Contract to be inequitable under the circumstances.

SECTION XXIV
ENTIRE AGREEMENT

The written terms and provisions of this Contract shall supersede any and all prior verbal or written statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

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Design Build Lift Station
Noble Oaks Estates

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

CITY OF PORT ST. LUCIE FLORIDA

HOLTZ CONSULTING ENGINEERS, INC.

By: _____

Caroline Augis

Purchasing Agent

By: _____

Curtis Robinson

Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA)

) ss

COUNTY OF

Palm Beach

The foregoing instrument was acknowledged before me by [☒] physical presence or [] online notarization, this 18 day of may, 2022 by Curtis Robinson who is [☒] personally known to me, or who has [] produced the following identification:



NOTARY SEAL/STAMP

|

April Xaros

Signature of Notary Public

April Xaros

Print Name of Notary Public

Notary Public, State of Florida

My Commission expires:

3-21-26

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT
Contract #20220067

STATE OF FLORIDA §
COUNTY OF ST. LUCIE§

Before me, the undersigned authority, personally appeared affiant Curtis Robinson
who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive an agreement for professional services with the City of Port St. Lucie, St. Lucie County, Florida.

2. That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into an agreement with the City of Port St. Lucie, St. Lucie County, Florida to provide professional services for a project known as #20220067 Noble Oaks Lift Station.

3. That the undersigned firm has furnished the City of Port St. Lucie, St. Lucie County, Florida a detailed analysis of the cost of the professional services required for the project.

4. That the wage rate information and other factual unit cost, which the undersigned firm furnished, were accurate, complete and current at the time the undersigned firm and the City of Port St. Lucie entered into the agreement for professional services on the project.

5. That the agreement which the undersigned firm and the City of Port St. Lucie entered into on this job contained a provision that the original agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the City of Port St. Lucie determines the agreement price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit cost and that all such agreement adjustments shall be made within one (1) year following the end of the agreement.

FURTHER AFFIANT SAYETH NAUGHT

Curtis Robinson
Holtz Consulting Engineers, Inc.
Curtis Robinson
By: Vice President

The foregoing instrument was acknowledged before me by Curtis Robinson who appeared X in physical presence or via remote online notarization and has produced as identification or is personally known to me.

WITNESS my hand and official seal in the State of County last aforesaid this 18 day of may, 2022.

(SEAL)



April Xaros
Signature
April Xaros
Notary Name (typed or printed)
Notary
Title

SPECIFIC AUTHORIZATION

11-909-00

Pursuant to the provisions contained in the "Agreement for Design Build Services" between the CITY OF PORT ST LUCIE, hereinafter referred to as "OWNER", and Holtz Consulting Engineers, Inc., hereinafter referred to as "FIRM", this Specific Authorization outlines the services to be provided by the FIRM under the terms and conditions set forth herein and in the AGREEMENT, which is incorporated herein by reference as though set forth in full.

The OWNER desires engineering and/or design build services related to Noble Oaks Lift Station and Low Pressure Improvements, hereinafter referred to as the "SPECIFIC AUTHORIZATION".

Section 1 - Terms

Capitalized terms not defined in this SPECIFIC AUTHORIZATION shall have the same meaning as ascribed to them in the AGREEMENT.

Section 2 - Scope of Services

The FIRM will provide the following services in accordance with applicable section(s) of the AGREEMENT:

This scope of work is for the ^{design} installation of a new low pressure force main collection system and submersible lift station and discharge force main for the Noble Oaks section of Owner's service area. The project includes a low pressure force main collection system for the fifteen (15) residential lots on Noble Oaks Lane. The lift station will be designed to accommodate flow from the 15 lots in the immediate future and approximately 235 ERCs in the future.

All work will be done in accordance with OWNER'S standards for construction and construction details, unless specifically stated.

Plans and specifications will be provided to OWNER at the Draft and Final design completion stages. Florida Department of Environmental Protection (FDEP) and St. Lucie County Right-of-Way permits will be applied for at the draft design stage.

A detailed scope is prepared in Attachment A – Scope of Services.

Section 3 - Location

The services to be performed by the FIRM shall be on the following site or sites:

The low pressure collection main will be constructed in the Noble Oaks neighborhood and terminate at the proposed lift station. The lift station will be constructed in the vicinity of the Noble Oaks neighborhood on a City-owned property. The lift station discharge force main will be constructed in the South 25th St. right-of-way to the existing force main located at the intersection of River Branch Drive.

Section 4 - Deliverables

The FIRM will provide the following Deliverables to OWNER:

1. Performance and Payment bonds.
2. Design plans for construction and permitting, purchasing, and construction purposes at the draft and Final design stages.
3. All required permits.
4. Project, equipment, and material submittals.
5. Purchase and installation of equipment and materials.
6. Coordination of all shut down scheduling.
7. Construction of improvements.
8. Startup and testing services.
9. Restoration activities.
10. Record drawings.
11. Closeout of any outstanding permits.

Section 5 - Time of Performance

Execution of this SPECIFIC AUTHORIZATION shall constitute Notice to Proceed. The FIRM and OWNER agree to the following schedule:

Task	Time to Completion
Notice to Proceed (NTP) for Phase 1 Services	0 Days
Release Surveyor and Geotech	1 Day from NTP
Complete Survey and Geotech	30 Days from NTP
Draft Design Submittal	60 Days after Receipt of Survey
Permitting	Permit Applications Submitted with Draft Design
Final Design Submittal	15 Days after Receipt of Comments from OWNER on Draft Design
Substantial Completion	240 Days from NTP for Phase 2 Services
Final Completion	270 Days from NTP for Phase 2 Services

Section 6 - Method and Amount of Compensation

The FIRM shall be paid by the OWNER in accordance with the AGREEMENT.

Total job Price: \$1,060,345.00.

- The fee for Phase 1 Services is \$62,892.00 and shall be paid by OWNER on a lump sum payment basis. No retainage shall be withheld for Phase 1. A detailed cost breakdown is included in Attachment B – Phase 1 Cost Summary.
- The initial GMP for Phase 2 services is \$997,453.00. This budget price is based on preliminary construction cost estimates and a GMP Change Order will be provided to OWNER in Task 2 of Phase 1 services. Phase 2 shall be paid by OWNER on a unit price payment basis. Retainage shall be withheld for Phase 2 pursuant to the terms of the AGREEMENT. A detailed cost breakdown is included in Attachment C – Phase 2 Project Estimate. The GMP shall be reconciled after Substantial Completion.

Section 7 - Specifications

The specifications for this SPECIFIC AUTHORIZATION are set forth in the City of Port St. Lucie Utility Systems Department Utility Standards Manual, which are incorporated herein by reference. Additional specifications will be prepared as needed for purchase and installation of materials and equipment.

On the terms contained in the FIRM's said proposal for the doing of said work and the said award therefore, and the Specifications herein specifically referred to and made a part of this contract.

Section 8 - Responsibilities

The FIRM shall, under no circumstance, look to the OWNER to provide any labor or equipment for the FIRM. The FIRM shall provide all of the labor and equipment necessary to perform the job or services contracted for at the expense of the FIRM. Risk of damage, destruction or loss of any property of any kind brought onto the premises or received by the FIRM that may be on the premises which are the SPECIFIC AUTHORIZATION site, during the performance of this SPECIFIC AUTHORIZATION, shall be at the sole risk of the FIRM.

- 8.1 The OWNER hereby designates John Eason as the OWNER'S representative pursuant to Section 5 of the AGREEMENT.
- 8.2 In addition to applicable provisions of Section 3 of the AGREEMENT, the OWNER will furnish the following:
 - 1. Reasonable access to the site and coordinated shutdowns.
 - 2. Submittal reviews by OWNER staff.
 - 3. Permit fees are to be paid by OWNER

The FIRM acknowledges and understands that it is an independent contractor in its relationship with the OWNER. The FIRM hereby designates Curtis Robinson as the FIRM's representative.

Section 9 - Commencement

Phase 1 Services:

The FIRM shall commence upon Notice to Proceed and end 120 days after NTP for Phase 1 Services.

Phase 2 Services:

The FIRM must obtain authorization on a GMP Change Order prior to commencing Phase 2 Services and will end 270 days after commencing Phase 2 Services.

Section 10 - Other Provisions

All applicable portions of the AGREEMENT not specifically modified herein shall remain in full force and effect and are incorporated by reference herein.

ATTACHMENT A – SCOPE OF SERVICES
NOBLE OAKS LIFT STATION AND LOW PRESSURE IMPROVEMENTS

The project will include surveying, engineering, and construction services for the design, permitting, procurement, and installation of a new low pressure force main collection system and submersible lift station and discharge force main for the Noble Oaks section of Owner's service area. The project includes a low pressure force main collection system for the fifteen (15) residential lots on Noble Oaks Lane. The lift station will be designed to accommodate flow from the 15 lots in the immediate future and approximately 235 ERCs in the future.

The project will consist of the following tasks:

Phase 1 Services:

Task 1 – Surveying and Site Investigation.

The Design-Build Firm (DB FIRM) will contract with Betsy Lindsay, Inc. to perform a topographic route survey and prepare base drawings for the proposed force main:

- The horizontal control shall be based on the Florida State Plane Coordinate System, and the vertical shall be based on the North American Datum of 1983 (NAD 83). Three permanent benchmarks will be established and will reference the NAVD of 1988 (NAVD 88) with a conversion to NGVD 29 to be displayed on the survey.
- The topographic survey shall collect cross-section elevations from the right-of-way to the right-of-way lines at 50-foot intervals covering the proposed low pressure force main route along Noble Oaks Lane. It will include cross-sections of the force main route along South 25th Street from the proposed lift station to the existing force main located at the intersection of River Branch Drive.
- The survey will also include the proposed lift station site.
- The survey will locate above-grade improvements and any surface evidence of below-grade utilities and structures as well as all flagged utilities.

Right-of-ways lines, tract lines, and easements within the survey area will be depicted on the survey.

Task 2 – Geotechnical Exploration Services.

This task will include performing subsurface explorations and geotechnical studies to obtain subsurface soil information necessary for the proper design of the lift station wet well. The work includes one standard penetration tests at a depth of 50 feet by Anderson Andre Consulting Engineers, Inc. near the location of the proposed lift station wet well. The borings will be performed in general accordance with procedures recommended in ASTM D-1586, using a truck-mounted drilling rig. A geotechnical report summarizing the results of the boring will be provided and incorporated into the Contract Documents. The report will

include the location and depth of the boring, visual classification of the recovered samples, a compressive strength test results on rock as necessary and means and methods for soil compaction and consolidation as may be required.

Task 3 – Engineering Design Services.

DB FIRM shall prepare construction plans for the installation of a low pressure force main system for the fifteen (15) lots located in the Noble Oaks neighborhood. A new duplex submersible lift station will be designed to meet Owner standards. It will include a concrete precast wet well and terminal manhole, concrete top slab, chain link fence, control panel with generator receptacle, biological odor control system, and concrete driveway. The lift station will connect to the Owner's existing fiber optic systems. A lift station discharge force main will be designed to connect the new lift station to the existing force main

All work will be done in accordance with OWNER'S standards for construction and construction details, unless specifically stated.

Plans will be provided to OWNER at the draft and Final design completion stages. This task includes attendance at meetings, site visits, coordination with other utilities within the vicinity, and preparation of one construction cost estimate.

Task 4 – Permitting Services

The DB Firm shall prepare and submit applications for permits to construct the force main at the 90% design stage. Applications for permits will be submitted to the following agencies:

- Florida Department of Environmental Protection (FDEP)
- St. Lucie County Right-of-Way Permit

Permit fees will be paid by OWNER. Responses to requests for additional information from FDEP and St. Lucie County are included in the DB Firm's fees.

Phase 2 Services:

Task 5 - Engineering Services During Construction.

During the construction phase of the Project, the DB FIRM will provide the following services:

- Direct the preconstruction meeting with the OWNER, subcontractors, and other interested parties.
- Administer the Construction Contract between DB FIRM and OWNER.
- Administer the subcontracts between DB FIRM and subcontractors.

- Prepare and submit shop drawings and submittals. Review and comment on shop drawings submitted by subcontractors and suppliers and obtain approval from OWNER.
- Review subcontractor invoices and prepare monthly applications for payment.
- Manage and coordinate with subcontractors and material suppliers.
- Provide subcontractor oversight and inspection including providing construction managers and inspectors for compliance with design documents.
- Furnish and install all materials, labor, and equipment required for the complete installation of the force main as shown on the Final Design plans.
- Prepare Record Drawings with each Pay Request and at completion of the project.
- Certify and close-out all permits.
- Reconcile the GMP Change Order with OWNER.
- Prepare final documentation for Contract close-out.
- Conduct a Warranty Walk-through 12 months after Final Completion.

Attachment B Noble Oaks Lift Station and Low Pressure Improvements Phase 1 Services Cost Summary

		Principal Engineer	Associate Engineer	Senior Project Manager	Project Manager	Project Engineer (PE)	Construction Manager	Project Engineer (EI)	Construction Inspector	Senior Designer	Drafter	Administrative Assistant	Subconsultant	Item Cost (Note Subconsultant fee is marked up 10%)	Task Cost
Rate		\$195	\$190	\$170	\$150	\$130	\$150	\$105	\$105	\$115	\$100	\$80	--		
Task	Item	Hours											Fees		
1 Surveying and Site Investigation	Betsy Landsay Inc												\$5,900.00	\$6,490.00	\$7,490.00
	Coordination with Surveyor and Field Truth Survey			1				2		4		2		\$1,000.00	
2 Geotechnical Evaluation	AACE, Inc												\$3,115.00	\$3,427.00	\$3,977.00
	Coordinate with Geotech Firm			2				2						\$550.00	
3 Engineering Design Services	Kickoff Meeting	1		1				1						\$470.00	\$47,350.00
	Site Visits			2				4			2			\$960.00	
	Calculations	2		4		16		24						\$5,670.00	
	Electrical Engineering (C&W Engineering)												\$9,800.00	\$10,780.00	
	Coordination with Subs and Manufacturers			4				8				4		\$1,840.00	
	Prepare Draft Design	4		8		16		40			120			\$20,420.00	
	Prepare Construction Cost Estimate			2		2		4						\$1,020.00	
	Prepare Final Design	2		4		8		16			24			\$6,190.00	
4 Permitting	Prepare FDEP Permit Application			2				2						\$550.00	\$4,075.00
	FDEP RFI Response			2				2						\$550.00	
	Coordination with FDEP			1				1						\$275.00	
	Prepare SLC ROW Permit Application			2				4						\$760.00	
	SLC ROW RFI Response			2				6						\$970.00	
	Coordination with SLC ROW			2				6						\$970.00	
		9	0	39	0	42	0	122	0	4	146	6	\$18,815.00	Total Engineering Fee \$62,892.00	
		HCF \$44,077													

Attachment C
Takeoff Worksheet

Attachment C
Takeoff Worksheet

Description	Quote/Vendor	Unit	Quantity	Cost	Ext. Cost	Tax (%)	Markup	Ext. Price
01 General Requirements								
General Conditions								
Submittal Labor	HCE	HR	40	\$ 105.00	\$ 4,200.00		1 \$	4,200.00
Record Drawings	HCE	HR	16	\$ 150.00	\$ 2,400.00		1 \$	2,400.00
Progress Meetings	HCE	HR	12	\$ 150.00	\$ 1,800.00		1 \$	1,800.00
Scheduling	HCE	HR	20	\$ 170.00	\$ 3,400.00		1 \$	3,400.00
Construction PM	HCE	HR	80	\$ 170.00	\$ 13,600.00		1 \$	13,600.00
Construction Manager	HCE	HR	320	\$ 150.00	\$ 48,000.00		1 \$	48,000.00
Purchasing and Subcontracts	HCE	HR	16	\$ 190.00	\$ 3,040.00		1 \$	3,040.00
SC Inspection and Closeout Activities	HCE	HR	4	\$ 170.00	\$ 680.00		1 \$	680.00
Permit Coordination and Closeout	HCE	HR	4	\$ 150.00	\$ 600.00		1 \$	600.00
Warranty Walkthrough	HCE	HR	4	\$ 105.00	\$ 420.00		1 \$	420.00
Construction Assistance	HCE	HR	24	\$ 190.00	\$ 4,560.00		1 \$	4,560.00
Permit Fees	HCE	Allowance	1	\$ 3,000.00	\$ 3,000.00		1 \$	3,000.00
Bond	HCE	LS	1	\$ 7,921.40	\$ 7,921.40		1.15 \$	9,109.00
Project Mgmt. License	HCE	LS	1	\$ 3,221.00	\$ 3,221.00		1.15 \$	3,704.00
							Bid Item Totals:	\$ 98,513.00
01 General Conditions								
General Conditions	Felix	LS	1	\$ 90,000.00	\$ 90,000.00		1.1 \$	99,000.00
							Bid Item Totals:	\$ 99,000.00
02 Sitework								
Sitework	Felix	LS	1	\$ 440,000.00	\$ 440,000.00		1.1 \$	484,000.00
							Bid Item Totals:	\$ 484,000.00
03 Concrete								
Concrete	Felix	LS	1	\$ 20,000.00	\$ 20,000.00		1.1 \$	22,000.00
							Bid Item Totals:	\$ 22,000.00
09 Finishes								
Finishes	Felix	LS	1	\$ 10,000.00	\$ 10,000.00		1.1 \$	11,000.00
							Bid Item Totals:	\$ 11,000.00
11 Equipment								
Equipment	Felix	LS	1	\$ 85,000.00	\$ 85,000.00		1.1 \$	93,500.00
							Bid Item Totals:	\$ 93,500.00
15 Mechanical								
Mechanical	Felix	LS	1	\$ 30,000.00	\$ 30,000.00		1.1 \$	33,000.00
							Bid Item Totals:	\$ 33,000.00
16 Electrical								
Electrical	Felix	LS	1	\$ 125,000.00	\$ 125,000.00		1.1 \$	137,500.00
							Bid Item Totals:	\$ 137,500.00
100 Engineering Services								
See "Attachment D"								
							Bid Item Totals:	\$ 18,940.00
							Grand Totals:	\$ 997,453.00

Attachment D Noble Oaks Lift Station and Low Pressure Improvements

		Principal Engineer	Associate Engineer	Senior Project Manager	Project Manager	Project Engineer (PE)	Project Engineer (EI)	Construction Manager	Construction Inspector	Senior Designer	Drafter	Administrative Assistant	Subcontractor	Item Cost (Note Subconsultant fee is marked up 10%)	Task Cost
Task	Rate	\$195	\$190	\$170	\$150	\$130	\$105	\$150	\$105	\$115	\$100	\$80	:		
	Item	Hours											Fees		
3. Construction Phase Engineering Services	Preconstruction Meeting with Agenda and Minutes		2	2		8	8							\$2,600.00	\$18,940.00
	Submittal Review			2		8	8							\$2,220.00	
	Progress Meetings		2	4	4									\$1,660.00	
	Electrical Engineering (C&W)												\$6,400.00	\$7,040.00	
	Prepare Record Drawings			2		4					24			\$3,260.00	
	Prepare Final Reconciliatory Change Order		2			2								\$640.00	
	Permit Inspections and Closeout			4			8							\$1,520.00	
		0	6	14	4	22	24	0	0	0	24	0	Sub		
													\$6,400.00		
													HCE		
													\$12,540		
														Total Engineering Fee	\$18,940.00