

**CITY OF PORT ST. LUCIE
CONTRACT #20210102**

This Contract executed this _____ day of _____, 2022, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City", and *CLASSIC CUTS & FISH POND DESIGN, INC., 1003 Tilton Road, Port St. Lucie, Florida 34952*, hereinafter called "Contractor" or "Proposer".

**SECTION I
RECITALS**

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

WHEREAS, Contractor is licensed in the State of Florida; and

WHEREAS, the City wishes to contract with a Contractor to provide the Scope of Services and products / services based on the terms and subject to the conditions contained herein; and

WHEREAS, Contractor is qualified, willing, and able to provide the Scope of Services and products / services specified on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this Contract with Contractor to perform the Scope of Services and product / services specified and, with a commission amount to be paid as agreed upon below.

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 II
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 or fax and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

Contractor: Michael Ryckman, Owner
Classic Cuts & Fish Pond Design, Inc.
1003 Tilton Road
Port St. Lucie, FL 34952
Tel: 772-201-7716 / Fax: 772-344-3348
Email: classiccutslandscapepsl@gmail.com

City Contract Administrator: Michelle Fentress
Procurement Agent I - Procurement Management Department
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099

Preventative Maintenance of All Bridges and Water Control Structures

Tel: 772-871-5222 / Fax: 772-871-7337
E-mail: mfentress@cityofpsl.com

City Project Manager:

John Dunton, Deputy Director
Public Works Department
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
Tel: 772-344-4035 / Fax: 772-871-5289
Email: JDunton@cityofpsl.com

SECTION III
DESCRIPTION OF SERVICES TO BE PROVIDED

The intent of the City is to enter into a per unit fixed price basis contract with one (1) qualified Contractor to perform necessary preventative maintenance of all Bridges and Water Control Structures throughout the City of Port St. Lucie. Maintenance shall generally mean lubrication of structure gates, mowing, and litter removal. It does not include structural repairs to address spalling, cracking, or delamination. The Contractor shall supply all labor, supervision, equipment, machinery, tools, materials, transportation, and other incidentals necessary to comply with the specifications set forth herein. This includes, but not limited to, maintaining approximately twenty-five (25) bridges and one hundred fifty-two (152) verify Water Control Structures up to six (6) times per year. Future locations may be added or deleted during the Contract period at the fixed price per location. The City's schedule for maintenance of the bridges and water control structures reflects the direction the City has taken to standardize the level of service required throughout the City. The number of annual maintenance rotations will be at the discretion of the City's Project Manager.

The City reserves the right to modify the level of service due to environmental conditions and/or the demands from the public.

Mowing maintenance may vary. The City's Project Manager shall exercise discretion as to the amount and number of services for all properties.

Special Requirements

1.1. Safety Precautions - The Bidder shall erect and maintain all necessary safeguards for the protection of the Bidder's employees and subcontractors, City personnel, and the general public; including, but not limited to, posting danger signs, coned off vehicles, arrow boards and other warnings against hazards as is prudent and/or required by law to protect the public interest. The selected Bidder's employees shall wear company uniforms, safety vests, safety boots and safety glasses. All damage, injury or loss to persons and/or property caused, directly or indirectly, in whole or in part, by the selected Bidder's employees, or subcontractor(s), or anyone directly or indirectly employed by said parties shall be remedied by the selected Bidder(s).

1.2. Inspections - The City inspections shall be made, before, during and after jobs are completed. The City expects the Selected Bidder(s) to use the proper number of crew members to accomplish the work. Any deviation from or failures to comply with terms of this Contract shall be adjusted promptly upon notification. Lack of prompt correction shall be cause for cancellation of the Contract.

1.3. Discrepancies - If, in the course of performing work resulting from an award under this

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specification, the selected Bidder(s) finds any discrepancy between the area defined in these specifications and the actual area where work is being performed, the selected Bidder(s) shall discontinue work on the subject area and inform the City of the discrepancy. The selected Bidder(s) shall thereafter proceed as authorized by the City who will document any modification to these specifications that City has authorized in writing as soon as possible.

- 1.3.1. Suspension of Work** - The City may at any time suspend work on the entire job or any part thereof for such periods as deemed necessary and for whatever cause by giving three (3) calendar days written notice, signed by the City, to the selected Bidder(s). The selected Bidder(s) shall resume the work within three (3) calendar days after a written notice to resume work is issued to the selected Bidder(s) and is signed by the City.

Neither additional compensation nor a time extension will be paid or granted to the selected Bidder(s) when the operations are suspended for the following reasons:

- A. The selected Bidder(s) fails to comply with the Contract Documents.
- B. The selected Bidder(s) fails to carry out orders given by the City.
- C. The selected Bidder(s) cause conditions considered unfavorable for continuing the work.

Suspension of operations on City observed Holidays - Unless the selected Bidder(s) submits in writing ten (10) calendar days on advance of the request and receives written notice by the City, the selected Bidder(s) shall not work on the following days:

Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day, the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, remove all equipment and materials from the clear zone, except those required for the safety of the traveling public. The selected Bidder(s) will not be entitled to any additional compensation for the removal of equipment from clear zones during such holiday periods.

- 1.3.2. Job Site Emergencies** - In the event of emergencies affecting the safety of persons, the work, or property, at the site or adjacent thereto, the selected Bidder(s), or his/her designee, without special instruction or authorization from the City, is obligated to act, at his/her discretion, to prevent threatened damage, injury or loss. In the event such actions are taken, the selected Bidder(s) shall promptly give to the City written notice and contact immediately by phone, of any significant changes in work or deviations from the Contract documents caused thereby, and if such action is deemed appropriate by the City a written authorization signed by the City covering the approved changes and

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deviations will be issued. Appropriate compensation adjustments will be approved, provided the cause of the emergency was beyond the control of the selected Bidder(s).

- 1.3.3. **Equipment List** - Only equipment designed for performance of work described herein will be acceptable for operation. The equipment used must be in good operating condition at all times. Include a list of equipment proposed for use (owned and/or leased), with the bid. This list must include make, model, type, model year and general condition of equipment proposed for use. The City may inspect the equipment prior to awarding the bid, and at anytime during the course of the contract. Safety devices shall be properly installed and maintained at all times the equipment is in use. All equipment used must have company identification signs including, including but not limited to, trucks, mowers, etc.
- 1.3.4. **Sanitary Conditions** - The selected Bidder(s) shall be responsible to provide and maintain in a neat and sanitary condition such accommodations for the use of employees as may be necessary to comply with the regulations of the County Board of Health or other bodies having jurisdiction. Selected Bidder(s) shall commit no public nuisance.
- 1.3.5. **Foreman or Superintendent and Workmen-** The selected Bidder(s) shall at all times during progress of the work have on site a competent foreman or superintendent with authority to act for him /her and to cooperate with the City's Project Manager and/or his/her designee. The selected Bidder(s) shall provide competent, careful and reliable workmen capable of performing work assigned to them. Laborers, at times, may be on private property. The Project Manager is to be notified immediately if a private property owner has any complaints. The City will deal directly with citizen complaints.
- 1.3.6. **Contractual Relations** - The selected Bidder(s) are advised that nothing contained in the contract or specifications shall create any contractual relations between the City and subcontractors of the selected Bidder(s).
- 1.3.7. **Labor and Equipment** - The selected Bidder(s) shall utilize experienced help who are thoroughly capable of performing the work assigned to them. The selected Bidder(s) shall utilize proper equipment in good repair to perform assigned work. Failure on the part of the selected Bidder(s) to furnish such labor or equipment shall be sufficient cause for annulment of any award resulting from these specifications.
- 1.3.8. **Limitation of Operations** -
 - 1.3.11.1 - No equipment, regardless of width, shall be left on the roadway right-of-way overnight or parked in the median without written approval from the City.
 - 1.3.11.2 - The selected Bidder shall preserve from damage all property associated with, or located in the vicinity of, or is in any way affected by the work. This applies to public and private property and/or utilities.
 - 1.3.11.3 - Any damages occurring to such properties shall be immediately repaired at the expense of the selected Bidder to a condition equal to or better than that existing

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before such damage occurred. The City's Project Manager must be notified by the end of the shift on the day the damage occurred. All repairs shall be made within twenty-four (24) hours.

1.3.11.4 - The selected Bidder shall provide adequate protection for curbs and sidewalks over which trucks and equipment pass to reach the job site.

Specific Requirements

1.3.9. **Premises/Site Exploration** – Location of project site is at various locations throughout the City of Port St. Lucie, Florida.

1.3.10. **Hours of Service** - The standard hours of work allowed in the City's bridges and water control structures are from 7:00 a.m. to sundown Monday through Saturday. Any work performed by the Contractor outside of the aforementioned time limit requires special authorization by the City and requires that the Contractor obtain a noise permit from the City Police Department. All equipment operated at night shall comply with the noise levels established by the City of Port St. Lucie noise ordinance. Any additional costs associated with work outside of the hours of work allowed shall be borne by the Contractor. This shall include, but not be limited to costs of inspection, testing, police assistance, and construction administration.

All night, Sunday, and/or Holiday work must be authorized by the City and requires that the Contractor obtain a noise permit from the City Police Department. All night work within the City's right-of-way requires a minimum forty-eight (48) hour prior notice to the City. This clause shall not pertain to crews organized to perform maintenance work on equipment or to operate and maintain special equipment such as dewatering pumps, which may be required to work twenty-four (24) hours per day.

1.3.11. **Written Notices** - All written notices required by these specifications will be deemed to have been duly delivered; to the City when they have been given to the Project Manager, or his/her designee, or, to the selected Bidder when they have been given to an officer of the selected Bidders firm, or to an on-site Supervisor of the selected Bidder, or to the selected Bidder's Subcontractor's Supervisor.

1.3.12. **City Property** - Bidder shall be responsible to ensure that all equipment and supplies of the selected Bidder and their Subcontractor(s) shall not be stored on City property without prior written approval of the Project Manager. The selected Bidder shall also be responsible to ensure that all equipment and supplies of the selected Bidder and their Subcontractor(s) shall not be stored on private property.

1.3.13. **Adverse Weather** - Any adverse weather conditions, obstructions, or other conditions which delay the selected Bidder in the performance of a contract resulting from these specifications, to such extent that completion of required activities cannot be accomplished within the specified time, shall be punctually reported by the selected Bidder to the Project Manager in writing. Failure by the selected Bidder to render punctual written notice of said problems constitutes default, as time is of the essence.

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1.3.14. Inspections - The Project Manager, or his designee, shall have the authority to require that work be stopped to allow inspections as he deems appropriate.

1.3.15. Omissions - The selected Bidder shall be responsible to the City for all acts and omissions of; their employees, subcontractor(s), and, manufacturers whose products are utilized in the performance of the work.

1.3.16. Interpretation of the Approximate Quantities - The Bidder's attention is called to the fact that any estimate of quantities of work to be done and materials to be furnished under the specifications as shown on the proposed form, or elsewhere, is approximate only and not guaranteed. The City does not assume any responsibility that the final quantities shall remain in strict accordance with the estimated quantities, nor shall the selected Bidder plead misunderstanding or deception because of such estimate of quantities or of the character, location of the work, or other conditions pertaining thereto.

1.3.17. Specific Duties to be Performed: Maintenance of all Bridges and Water Control Structures

1.3.17.1. Work to be performed by the selected Bidder under this section includes: furnishing all labor, materials, equipment, and supervision required to perform the MAINTENANCE of the areas specified by City's Project Manager.

1.3.17.2. The selected Bidder will make every reasonable effort to leave the area in an aesthetically pleasing condition.

1.3.17.3. On water control structures and bridges, the selected Bidder will be responsible to inspect and remove all trash prior to the commencement of mowing and maintenance. The selected Bidder shall be required to weed eat around all signs, headwalls, culverts, grates, fire hydrants, delineators, utility poles, canal fronts, etc. that are located in maintenance areas. The Project Manager shall provide an itemized check list to the selected Bidder for the Bridges and Water Control Structures by location. This check list will need to be signed and dated for each occurrence. The Project Manager will require the selected Bidder to remove all trash within the bridges and water control structure sites. Nothing larger than a tire will be removed. The City will address this issue on a case-by-case basis.

1.3.17.4. The City will provide inspection sheets for the Bridges and Water Control Structures. All Water Control Structures are to be exercised 100% during each service. City Staff is to be notified when a structure is to be operated so that the City can be on site to ensure that they have been properly exercised. If the structure is inoperable, please identify on the inspection report and contact the Project Manager or his/her designee. Additionally, the contractor is responsible for sustaining access to the property by potentially maintaining trails. All trees and vegetation are to be cut back off the structures to ensure proper suitability to operate when necessary.

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- 1.3.17.5. The use of herbicide may not be used.
- 1.3.17.6. The estimated number of annual maintenance to be performed by the selected Bidder in each area is specified on Bid Reply Sheet.
- 1.3.20.7. The selected Bidder shall perform work in accordance with the Monthly Schedule issued by the Project Manager, or his/her designee.
- 1.3.20.8. It is the selected Bidder's responsibility to maintain a uniform height of cut consistent with the terrain. Cutting blades shall be sharpened as needed, to maintain a good cutting characteristic. Blades shall be set to cut grass to be three (3) inches in height after being cut. All mowing is to be tied into private property. The selected Bidder shall agree at any time deemed necessary by the Project Manager to allow the Project Manager, or his/her designee, the right to inspect the mowing blades of any machine being used.
- 1.3.20.9. When work is in progress, selected Bidder shall make a reasonable effort to ensure that cuttings will not be discharged into the street or onto private property. The selected Bidder shall also make every reasonable effort to ensure that cuttings will be discharged onto the uncut area. Any debris as a result of the mowing operation discharged in these locations may be required to be moved by the selected Bidder at the discretion of the Project Manager before work continues.
- 1.3.20.10. Any damage occurring during mowing operations is to be immediately reported before the end of the daily shift by the selected Bidder to the Project Manager. The Project Manager will determine what corrective action is required and inform the selected Bidder. The selected Bidder will punctually perform the required corrective action at the selected Bidder's expense no later than twenty-four (24) hours from the time it is reported.
- 1.3.20.11. The selected Bidder shall deliver daily VIA email, facsimile, or in person, a detailed work schedule to identify the specific work in progress, the name and number of personnel, street locations or sections being performed to the Project Manager or his/her designee.
- 1.3.21. **Inspections** - During the contract period the Project Manager, or his designee, shall continually inspect the work that has been performed and notify the Contractor of any deficiencies that require correction. The Contractor shall be responsible to remedy all deficiencies within twenty-four (24) hours after being notified to be eligible for that month's service payment.

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- 1.3.22. Equipment Storage** - The Contractor shall be responsible for to ensure that all equipment and supplies shall not be stored on City property without written permission from the Project Manager.

**SECTION IV
TIME OF PERFORMANCE**

The Contract period will start on February 1, 2022 and will extend for two (2) years ending on January 31, 2024. The Contractor will be required to commence work under this Contract within ten (10) calendar days after the start date identified in this Contract. In the event all work required in the bid specifications has not been completed by the specified end of the initial term date, the Contractor agrees to provide work at no additional cost as authorized by the Project Manager, or their designee, until all work specified in the bid specifications has been rendered.

Written requests shall be submitted to the City for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Contractor feels he has no control. Requests for time extensions shall be submitted immediately but in no event more than two (2) weeks upon occurrence of conditions, which, in the opinion of the Contractor, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Contractor's control.

Unless indicated otherwise, the Contractor shall commence work within ten (10) days after receiving the fully executed contract.

**SECTION V
RENEWAL OPTION**

The initial term of the contract(s) is for two (2) calendar year(s). PSL shall have three (3), two (2) year options to renew, which options shall be exercisable at the sole discretion of PSL. Renewal will be accomplished through the issuance of Contract Amendment. In the event that the contract, shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified products and/or services, PSL may, with the written consent of the awarded Contractor(s), extend the contract(s) for such period of time as may be necessary to permit PSL's continued supply of the identified products and/or services. The contract(s) may be amended in writing from time to time by mutual consent of the parties. Unless this contract states otherwise, the resulting award of the contract(s) does not guarantee volume or a commitment of funds.

NOTE: For issuance of either of the renewals set forth herein, Contractor shall submit a request in writing no more than 120 days nor less than 90 days prior to termination of the initial contract period (for the first renewal) or the renewed contract period(s).

**SECTION VI
COMPENSATION**

This is a unit price contract to be paid by the City to the Contractor in the fixed price of **\$34,974.00** per annual amount for Water Control Structures and Bridge locations. The intent of the City is to have the Contractor perform the scope of work for all Bridges and Water Control Structures.

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Schedule "A"

Line Item No.	Type of Area Mowing	Estimated # of Locations	Annual Occurrence	Fixed Price Per Location	Total Amount Per Occurrence	Total Amount Per Year
1	Water Control Structures	152	6	\$27.00	\$4,104.00	\$24,624.00
2	Bridges	25	6	\$69.00	\$1,725.00	\$10,350.00
3	TOTAL ANNUAL AMOUNT					\$34,974.00

Payments will be disbursed in the following manner:

The Contract Sum - Work to be paid for on the basis of per unit prices: each, lump sum, linear feet, square yards, system, etc.

Invoices for services shall be submitted once a month, by the tenth (10th) day of each month, and payments shall be made within twenty (20) business days unless Contractor has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made within twenty (20) business days of receipt of Contractor's valid invoice, provided that the invoice is accompanied by adequate supporting documentation, including any necessary partial release of liens as described above, and is approved by the Project Manager as required under Section XV of the Contract.

No payment for projects involving improvements to real property shall be due until Contractor 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 City's Contract number and Purchase Order number, detail of items with prices that correspond to the Contract, a unique invoice number and partial and final release of liens.

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

The Contractor 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.

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

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Deductions thus made will not excuse the Contractor from other penalties and conditions contained in the Contract.

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

Upon renewal of the Contract, this contract allows for a price redetermination based on the U.S. Department of Labor, Bureau of Labor Statistics, and Consumer Price Index – All Urban Consumers - U.S. City Average- All Items. See link provided for more information.

https://data.bls.gov/timeseries/CUUR0000SA0?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true

The Contractor must request such an adjustment in writing no later than sixty (60) days prior to the renewal date and must include in the written request documentation that the Contractor has incurred bona fide cost increases in providing services under this Contract during the year in which the request is made. All price adjustments may be negotiated and determined with mutual agreement by all parties. Any increase or decrease will be effective on the contract renewal date. The prices will be held firm for the term of the contract.

The CPI can be found on the web at <http://www.bls.gov/cpi/home.htm>

**This would be the increase percentage to the unit price of the contract. If City agrees that said services are required and the negotiated cost is acceptable, then the City may extend this Contract for the additional term.

SECTION VII
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. Any and all changes must be authorized by a written change order signed by the City's Purchasing Agent or his designee as representing the City. 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 determined by mutual agreement of the parties before starting the work involved in the change.

SECTION VIII
CONFORMANCE WITH PROPOSAL

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Contractor pursuant to the Solicitation and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Contractor in relation to said proposal, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

SECTION IX
INDEMNIFICATION/HOLD HARMLESS

Contractor agrees to indemnify, defend and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor control in connection with the Contractor's performance of services under this Contract and to that extent Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals. That the aforesaid hold-harmless Contract by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Contract.

SECTION X
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 XI
INSURANCE

The Contractor 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 Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor 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.

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compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

Notice(s). Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Fed-EX, UPS, courier or other similar and reliable carrier which shall be addressed to the person who signed the Contract on behalf of the party at the address identified in the contract. Each such notice shall be deemed to have been provided:

- I. Within one (1) day in the case of overnight hand delivery, courier or Services such as Fed-Ex or UPS with guaranteed next day delivery; or,
- II. Within seven (7) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person or their designees and/or address shall be in writing to the other party and as provided herein.

Performance by Industry Standards. The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall, at a minimum, conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence

Permits, Licenses, and Certifications. The Contractor shall be responsible for obtaining all permits, licenses, certifications, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform with the requirements of said legislation. The Contractor shall be required to complete a **W-9 Taxpayer Identification Form**, provided with the City's contract, and return it with the signed contract and insurance documents.

Supersedes Former Contracts or Agreements. Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the City and the Contractor for the Services provided in connection with the Contract.

Use of Name or Intellectual Property. Contractor agrees it will not use the name or any intellectual property, including but not limited to, City trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the City.

Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the City and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach. Each waiver, if mutually agreed upon, shall be published as a contract amendment.

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1. Workers' Compensation Insurance & Employer's Liability: The Contractor 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, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis.
2. Commercial General Liability Insurance: The Contractor 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 CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. 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 interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, Certificates of Insurance 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 for Commercial General Liability, and Business Auto Liability policies. 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 include Contract# 20210102 Preventative Maintenance of All Bridges and Water Control Structures shall be listed as additional insured."** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies 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 Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City.

4. Automobile Liability Insurance: The Contractor shall 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 Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor 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

Preventative Maintenance of All Bridges and Water Control Structures

listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

5. **Waiver of Subrogation:** The Contractor 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 Contractor 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.
6. **Deductibles:** All deductible amounts shall be paid for and be the responsibility of the Contractor 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 Contractor's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all contractors, independent contractors and/or subcontractors comply with the same insurance requirements referenced herein. It will be the responsibility of the contractor to obtain Certificates of Insurance from all contractors, independent contractors, and subcontractors, listing the City as an Additional Insured without the language when required by written contract. If contractor, independent contractor or subcontractor maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by contractor, independent contractor, or subcontractor.

The Contractor 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 Contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the contract.

Payment & Performance Bonds: The Contractor shall furnish an acceptable recorded Performance and Payment Bond complying with the statutory requirements set forth in Section 255.05, Florida Statutes, in the amount of one hundred (100%) percent of the Contract price in a form approved by the City. A fully authorized Surety, licensed by the State of Florida shall execute the Performance and Payment Bond. The Performance and Payment Bond shall remain in full force and effect a minimum of one (1) year after the work has been completed and final acceptance of the work is issued by the City.

Should the Surety become irresponsible during the time the Contract is in force, the City may require additional and sufficient sureties and the Contractor shall furnish same to the satisfaction of the City within ten (10) days after written notice to do so. In default thereof, the Contract may be suspended as herein provided.

SECTION XII
ACTS OF GOD

The Contractor shall be responsible for all preparation of the site for Acts of God, including but not limited to; earthquake, flood, tropical storm, hurricane or other cataclysmic phenomenon of nature, rain, wind or other natural phenomenon of normal intensity, including extreme rainfall. No reparation shall be made to the Contractor for damages to the Work resulting from these Acts. The City is not responsible for any costs associated with pre or post preparations for any Acts of God.

Emergencies – In the event of emergencies affecting the safety of persons, the work, or property, at the site or adjacent thereto, the Contractor, or his designee, without special instruction or authorization from the City, is obligated to act to prevent threatened damage, injury or loss. In the event such actions are taken, the Contractor shall promptly give to the City written notice and contact immediately by phone, of any significant changes in work or deviations from the Contract documents caused thereby, and if such action is deemed appropriate by the City a written authorization signed by the City covering the approved changes and deviations will be issued.

SECTION XIII
PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any Sub-Contractor 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 XIV
COMPLIANCE WITH LAWS

The Contractor 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. Contractor will comply with all requirements of [28 C.F.R. § 35.151](#). Contractors and Sub-Contractor, shall comply with [§ 119.0701, Fla. Stat.](#) The Contractor and Sub-Contractor, are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from [Art. I, § 24\(a\), Fla. Const.](#) and [§ 119.07\(1\)\(a\), Fla. Stat. \(2013\)](#). 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 Contractor shall comply with Florida's Public Records Law. CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

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

Preventative Maintenance of All Bridges and Water Control Structures

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](#).
2. During the term of the contract, the Contractor 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. Contractor'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 Contractor agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Contractor 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 contractor 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 Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

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

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

SECTION XV
INSPECTION AND CORRECTION OF DEFECTS

In order to determine whether the required material has been delivered or the required work performed in accordance with the terms and conditions of the Contract documents, the Project Manager shall make inspection as soon as practicable after receipt from the Contractor of a Notice of Performance or delivery ticket. If such inspection shows that the required material has been delivered and required work performed in accordance with terms and conditions of the Contract documents and that the material and work is entirely satisfactory, the Project Manager shall approve the invoice when it is received. Thereafter the Contractor shall be entitled to payment, as described in Section VI. If, on such inspection the Project Manager is not satisfied, he shall as promptly as practicable inform the parties hereto of the specific respects in which his findings are not favorable. Contractor shall then be afforded an opportunity if desired by him, to correct the deficiencies so pointed out at no additional charge to the City, and otherwise on terms and conditions specified by the Project Manager. Upon failure of the Contractor to perform the work in accordance with the Contract Documents, including any requirements with respect to the Schedule of Completion, and after five (5) days written notice to the Contractor, the City may, without prejudice to any other remedy he may have, correct such deficiencies. The Contractor shall be charged all costs incurred to correct deficiencies. Such examination, inspection, or tests made by the Project Manager, at any time, shall not relieve Contractor of his responsibility to remedy any deviation, deficiency, or defect.

Authority - The Contractor is hereby informed that City inspectors are not authorized to alter, revoke, enlarge, or relax the provisions of these specifications. They are not authorized to approve or accept any portion of the completed work, or instructions contrary to the specifications. An inspector is placed on the project (or sent to the location of materials) to inspect materials being used in the work and to observe the manner in which the work is being performed and to report the progress of the work to the City. The inspector shall have the authority to reject defective materials or suspend any work that is being improperly done subject to the final decision of the City.

Notification – The Contractor shall be responsible to give twenty-four (24) hour notification to the City, when field observations are required.

Defective Work - All work and/or materials not meeting the requirements of these specifications shall be deemed as defective by the City, and all such work and/or material, whether in place or not, shall be removed immediately from the site of the work. All rejected materials that have been corrected shall not be used until the City has issued written approval to the Contractor. Without unnecessary delay and without any additional cost to the City, all work that has been rejected shall be remedied or removed and replaced in a manner acceptable to the City. If the Contractor fails to promptly remove and properly dispose of rejected materials and/or work then replaces same immediately after being notified to do so, the City may employ labor to remove and replace such defective work and/or materials. All charges for replacement of defective materials

Preventative Maintenance of All Bridges and Water Control Structures

and/or work shall be charged to the Contractor and may be deducted from any moneys due to the Contractor or his Surety.

Repair or Replacement - Should any defect appear during the warranty period, the Contractor shall, at their own expense, have repaired or replaced such item upon receipt of written notice from the City of said defect. Said repair or replacement must be accomplished within fourteen (14) calendar days after receipt of notification from the City of the defect.

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

SECTION XVI SCRUTINIZED COMPANIES

[Section 287.135, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global_Governance_Mandates_and_Florida%20Statutes_2019_01_29.pdf?ver=2019-01-29-130006-790), prohibits agencies from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran petroleum Energy Sector List, or do any business with Cuba or Syria. Both lists are created pursuant to [Section 215.473, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global_Governance_Mandates_and_Florida%20Statutes_2019_01_29.pdf?ver=2019-01-29-130006-790) https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global_Governance_Mandates_and_Florida%20Statutes_2019_01_29.pdf?ver=2019-01-29-130006-790.

SECTION XVII CONTRACT ADMINISTRATION

Amendments. The City and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract. The Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of the City and the Contractor.

Fiscal Year- All reference to Fiscal Year shall mean the City's Fiscal Year. The City's Fiscal Year is from October 1st through September 30th.

Integration of Terms. This Contract represents the entire contract between the parties. The parties shall not rely on any representation that may have been made by either party which is not included in the Contract.

Joint Venture. Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the vested parties. Each party shall be deemed to be an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon contract. Neither Contractor nor any of Contractor's agents, employees, subcontractors or contractors shall become or be deemed to become agents, or employees of the City. Contractor shall therefore be responsible for

SECTION XVIII
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.

City's Public Relations Image. – The Contractor's personnel shall at all times handle complaints and any public contact with due regard to the City's relationship with the public. Any personnel in the employ of the Contractor involved in the execution of work that is deemed to be conducting him/herself in an unacceptable manner shall be removed from the project at the request of the City Manager.

Contractual Relations. – The Contractor(s) are advised that nothing contained in the contract or specifications shall create any contractual relations between the City and Sub-Contractor of the Contractor(s).

Cooperative Purchasing Agreement. – This contract may be expanded to include other governmental agencies provided a cooperative purchasing agreement exists or an inter-local agreement for joint purchasing exists between the City of Port St. Lucie and other public agencies. Contractor(s) may agree to allow other public agencies the same items at the same terms and conditions as this contract, during the period of time that this contract is in effect. Each political entity will be responsible for execution of its own requirements with the Contractor.

Dress Code. – All personnel in the employ of the Contractor(s) shall be appropriately attired. Employees engaged in the course of work shall wear company uniforms neat and clean in appearance, readily identifiable to all City employees and the public. No tee shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Safety toed shoes shall be worn at all times.

Patent Fees, Royalties, and Licenses. – If the Contractor requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Contractor and his surety shall indemnify and hold harmless the City from any and all claims for infringement in connection with the work agreed to be performed. The Contractor shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

Maintenance. – The Contractor shall maintain all City Owned equipment in good working order when installed and thereafter to completion of the agreement. A preventative maintenance program by the Contractor should also be in place and a copy of it included in the returned proposal. A copy of each machine inspection and maintenance activity must be maintained by the Contractor.

SECTION XIX
ASSIGNMENT

Contractor 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 XX
TERMINATION, DELAYS AND LIQUIDATED DAMAGES

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

- I. The Contractor 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 Contractor;
- II. The Contractor fails to make substantial and timely progress toward performance of the contract;
- III. In the event the Contractor 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 Contractor 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 Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- V. The Contractor 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 Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VII. The Contractor 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 Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. 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. If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, the Contractor shall provide to the City two hundred (\$200.00) dollars as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed; and/or
- IV. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Contractor

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 Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the

Preventative Maintenance of All Bridges and Water Control Structures

Contractor 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.

Liquidated Damages for Delays. If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, (it being impossible to determine the actual damages occasioned by the delay) the Contractor shall provide to the City five hundred (\$500.00) dollars as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed. The Contractor and his sureties shall be jointly and severally liable to the City for the amount thereof.

Termination for Non-Appropriation. The City is a government agency which relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City reasonably determines that it does not have funds to meet its obligations under the awarded contract, the City will have the right to terminate the contract, without penalty, on the last day of the fiscal period for which funds were legally available.

SECTION XXI
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 to enforce 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 XXII
APPROPRIATION APPROVAL

The Contractor 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 Contractor 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 XXIII
CONFLICT OF INTEREST

The City hereby acknowledges that the Contractor 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 Contractor 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 Contractor shall disclose all of its Treasure Coast clients and related Scope of Work.

SECTION XXIV
PUBLIC RECORDS / TRADE SECRETS / COPYRIGHT

The Proposer's response to the City's proposal request is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, [Florida Statutes Chapter](#)

[119.07](#) ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this City's proposal request and the Contract to be executed as subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer's response to the Solicitation purporting to require confidentiality of any portion of the Proposer's response to the Solicitation, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the Solicitation constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE SOLICITATION AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE SOLICITATION OR ANY PART THEREOF AS COPYRIGHTED.

SECTION XXV
PROHIBITION AGAINST CONTINGENT FEES

The Contractor warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor 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 Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

SECTION XXVI
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, Contractor 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 XXVII
CODE OF ETHICS

Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in [Chapter 112.311 et seq.](#), Florida Statutes, and Code of Ethics Ordinances in [Section 9.14 of the City of Port St. Lucie Code.](#)

SECTION XXVIII
POLICY OF NON-DISCRIMINATION

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Contractor 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 mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION XXIX
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 XXX
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.

(Balance of page left intentionally blank)

Preventative Maintenance of All Bridges and Water Control Structures

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

CITY OF PORT ST. LUCIE FLORIDA

CLASSIC CUTS & FISH POND DESIGN, INC.

By: _____
Purchasing Agent

By: *Michael Ryckman*
Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA)
) ss
COUNTY OF Saint Lucie)

The foregoing instrument was acknowledged before me by physical presence or online notarization, this 7th day of January, 2022, by Michael Ryckman who is personally known to me, or who has produced the following identification:
Florida Drivers License

Pamela R. Ortiz
Signature of Notary Public

Pamela R. Ortiz
Print Name of Notary Public
Notary Public, State of Florida
My Commission expires:

NOTARY SEAL/STAMP

