

**CITY OF PORT ST. LUCIE
CONTRACT #20230118**

This Contract executed this _____ of _____, 2024, 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 *SCALAR Consulting Group Inc, 5713 Corporate Way, Suite 200, West Palm Beach Florida 33407* hereinafter called "Engineer" or "Consultant".

**SECTION I
RECITALS**

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

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

WHEREAS, the City wishes to contract with a consultant to provide Design, Permitting, and Final Plan Services for Bayshore Blvd Multimodal Corridor Improvements Project based on the terms and subject to the conditions contained herein; and

WHEREAS, Consultant 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 Consultant 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 named, 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.

Consultant: Scalar Consulting Group Inc.
5713 Corporate Way, Suite 200
West Palm Beach, Florida 33407
(561) 429-5065
e-mail: dburns@scalarinc.net

City Contract Administrator: Keith Stewart, NIGP-CPP, CPPO
Procurement Management Department
121 SW Port St. Lucie Boulevard

Port St. Lucie, FL 34984-5099
772-344-4068 / FAX 772-871-7337
E-mail: kstewart@coityofpsl.com

City Project Manager: Everett Tourjee
Public Works Dept.
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
Telephone 772-873-6334
Email: etourjee@cityofpsl.com

SECTION III

DESCRIPTION OF SERVICES TO BE PROVIDED

PROJECT DESCRIPTION & SCOPE

The CONSULTANT will provide professional engineering services in connection with the widening and reconstruction of NW Bayshore Boulevard that incorporates a “Complete Streets” approach as determined by the Feasibility Study (TASK 1-D). The approximate project length is 1.15 miles and includes construction of a roundabout at the intersection of Floresta Drive. The goal of this project is to provide a cost-effective design for widening the roadway that will include new sidewalks and drainage infrastructure, preferably within CITY right-of-way (R/W). Offsite ponds may be needed for stormwater treatment, depending on the desired roadway typical section and in coordination with project stakeholders. Roadway Plans will be prepared in accordance with the CITY’s Engineering Standards for Land Development manual, Florida Department of Transportation’s (FDOT) Greenbook, and FDOT Standard Plans. The roundabout at Floresta Drive will be designed to accommodate the design year traffic demand as determined by the Feasibility Study. Coordination with major stakeholders, including South Florida Water Management District (SFWMD), Florida Department of Environmental Protection (FDEP), and the Utility Agency Owners (UAO) with existing facilities located within the corridor, will be required.

TASK 1: RESEARCH

Tasks (1A - 1C) include acquiring historical information and data collection activities to complete the design and permitting of the facilities as described below.

TASK 1-A: SURVEY

Design Survey and Right-of-Way / Horizontal & Vertical Control / Digital Terrain Model

Work will be performed by BLI. A detailed scope of services for the topographic survey and R/W documents is fully described under BLI’s attached proposal.

Utility Designation / Location

Work will be performed by KEITH. A detailed scope of services for the utility

designation and verification (test holes) is fully described under KEITH's attached proposal.

Environmental Survey

Scalar will conduct an environmental survey for the project corridor to document the existing natural resources and identify sources of contamination if applicable. We will draft a natural resource evaluation report (NRE) that will serve as supporting documentation for environmental resource permitting (ERP) efforts.

TASK 1-B: GEOTECHNICAL

Work will be performed by TSF. A detailed scope of services for Geotechnical Engineering is fully described under TSF's attached proposal.

TASK 1-C: TECHNICAL DESIGN MEMORANDUM

A Design Technical Memorandum that identifies the relevant design criteria and project controls that will govern the development of the roadway typical section, geometrics, and intersection (including roundabout) design shall be submitted to the CITY. Access management strategies and guidelines based on FHWA's Access Management in the Vicinity of Intersections will be reviewed and incorporated into the design to improve the safety and capacity of the corridor. We will work closely with CITY staff to identify the appropriate project criteria based on the CITY's Engineering Standards for Land Development and obtain CITY approval for any deviations from the submitted technical memo.

TASK 1-D: FEASIBILITY STUDY

Traffic engineering and safety analysis as well as report compilation for the widening feasibility study will be performed by MEP. A detailed scope of services for this work is fully described under MEP's attached proposal. Additionally, the CONSULTANT shall provide graphical supporting documentation including typical sections and concept level plan view graphics for up to three (3) alternative roadway concepts to support final recommendation of the preferred alternative for the corridor.

TASKS 2-7: FINAL DESIGN

Tasks (2 - 7) include design and preparation of contract documents, including quantities and technical specifications for the roadway and other design components including drainage, lighting, landscaping, irrigation, signing and pavement markings. The CONSULTANT will also complete the associated permitting activities and all post-design services for tasks 2 to 7 as described below.

TASK 2: 30% Design

Design Plans will illustrate roadway detail of horizontal and vertical alignments on

the Roadway Plan/Profile Sheets. The CONSULTANT shall analyze and document Roadway Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums. The CONSULTANT shall design the geometrics using the design standards that are most appropriate with proper consideration given to the design traffic volumes, design speed, capacity and levels of service, functional classification, adjacent land use, design consistency and driver expectancy, aesthetics, pedestrian and bicycle concerns, ADA requirements, elder road user policy, access management and scope of work. This phase will include the preliminary layout of the stormwater management system.

Typical Sections & Pavement Design - will be developed by the CONSULTANT and approved by the CITY. The CONSULTANT will develop a typical section package. The typical sections will consider existing data, pedestrian, bicyclist, and drainage needs.

Utility Coordination - After CITY approval of the recommended typical section, a copy of that section along with plan sheets depicting road right-of-way shall be submitted to all affected utility companies and the CITY for marking their existing and proposed utilities. All existing and proposed utilities shall be shown on the construction plans. Utility coordination efforts will be completed by KEITH. A detailed scope of services for Utility Coordination is fully described under KEITH's attached proposal.

Preliminary Drainage - The CONSULTANT shall perform preliminary Stormwater design calculations to determine water quality and quantity requirements for the project. The drainage analysis will be for the roadway's drainage system alone, not for any basin wide problems. The CONSULTANT will maximize the use of the existing outfall areas along the corridor, where possible, to increase cost savings to the CITY. A maximum of two (2) drainage solutions will be considered. The CONSULTANT shall conduct pre-application meetings with SFWMD and the CITY. Additionally, the CONSULTANT shall make applications for permits to the previously mentioned agencies.

The 30% Design Deliverables will include but not limited to the plans and plan sheets identified in **Table 1** below for 30% Phase.

TABLE 1 – Anticipated Plans and Plan Sheets

	Phase			
	30%	60%	90%	100%

Key Sheet	P	P	C	F
Notes to Reviewer Sheet (8.5"x 11"; stand-alone)	P	P	C	N/A
Summary of Pay Items		P	C	F
Drainage Maps	P	C	C	F
Typical Sections	C	C	F	F
General Notes	P	P	C	F
Summary of Quantities			C	F
Summary of Drainage Structures	P	C	C	F
Drainage Structure Sheet(s)	P	C	C	F
Roadway Plan and Profile	P	C	F	F
Horizontal Control Plan	P	P	C	F
Intersection Layout – Floresta Drive	P	P	C	F
Special Profiles	P	C	C	F
Miscellaneous Construction Details		P	C	F
Retention/Detention Ponds		P	C	F
Retention Pond Cross Sections		P	C	F
Roadway Soil Survey		P	C	F
Roadway Cross Sections		P	C	F
Maintenance of Traffic/Temporary Traffic Control		P	C	F
Utility Adjustment Plans		P	C	F
Erosion Control Plans		P	C	F
SWPPP		P	C	F
Utility Verification (Pothole Data)		P	C	F
Signing and Pavement Marking Plans		P	C	F
Lighting Analysis		P	C	F
Lighting Plans		P	C	F
Landscape/Irrigation/Hardscape Plans		P	C	F

TASK 3: 60% Design Plans

Preparation of 60% Design Plans will illustrate the following: preliminary Plan/Profile Sheets, pavement markings, signage, preliminary signal design, cross-section details, and roadway Stormwater design information. The utility adjustment sheets will be completed. Preliminary lighting plan and signing and marking plans will be prepared. At completion of this phase, if required, the South Florida Water Management District (SFWMD) Environmental Resources Permit (ERP) and Water Use permit will be submitted. During this phase, a Conceptual/ Preliminary Design Public Meeting will be held to solicit public input. The CONSULTANT will coordinate the public information meeting. The CONSULTANT will prepare and mail all notices to residents and commercial property owners (mailing cost is a

reimbursable expense). CONSULTANT will participate in one (1) public meeting related to this project.

Permitting – The CONSULTANT will conduct pre-application meetings, jurisdictional determinations, and make applications for permits authorizing activities associated with the Bayshore Blvd. improvements. The CONSULTANT will process the permits on behalf of the CITY and seek to obtain the permits expeditiously.

The 60% design deliverables will include but not be limited to the plans and plan sheets identified in **Table 1 - 60% Phase**.

TASK 4: 90% Design Plans

Preparation of 90% Design Plans will include final roadway and drainage construction plans ready for bidding. The plans will include the final lighting, utility adjustment, stormwater pollution plan and preliminary quantities.

The 90% design deliverables will include but not be limited to the plans and plan sheets identified in **Table 1 - 90% Phase**.

TASK 5: 100% Design Plans

100% Design Plans will include complete design, permitting, utility company, and City Staff comments related to the proposed construction. This phase will include preparation of contract documents, which will include final quantities and technical specifications. This phase will also include pursuing all permits to completion.

The 100% design deliverables will include but not be limited to the plans and plan sheets identified in **Table 1 - 100% Phase**.

TASK 6: Utility Relocation Design

Work will be performed by KEITH. A detailed scope of services for Utility Relocation Design is fully described under KEITH's attached proposal.

Plans – 60%, 90%, and 100% design deliverables will include the following:

1. Engineering plans, technical specifications including measuring and basis of payment, specifications, and cost estimates
2. Conflict Analysis against Roadway design plans
3. Bid Documents, Non-Standard specs and Standard CPSL specs
4. Final Electronic Delivery Documents
5. 100% design plans are Signed and Sealed and ready for bidding

TASK 7: Post-Design Services include, but are not limited to, preparation of the construction specifications, attendance of a pre-bid meeting, answering questions regarding the Construction Plans or technical aspects of bid documents during the bid process, attendance of a pre-construction meeting and progress meetings, as needed, and resolution of design issues identified in the field during construction.

SECTION IV
TIME OF PERFORMANCE

The Contract Period start date will be _____ and will terminate One Thousand Four Hundred and Sixty (1460) calendar days thereafter on _____. The Consultant 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 date, the Consultant agrees to provide work as authorized by the Project Manager until all work specified in the bid specifications has been rendered and accepted by the City.

Tasks – Descriptions	Estimated Time of Performance
Task 1: Research	90 Calendar Days
Task 2: 30% Design	90 Calendar Days
Task 3: 60% Design plans	174 Calendar Days
Task 4: 90% Design plans	110 Calendar Days
Task 5: 100% Design plans	65 Calendar Days
Task 6: Utility relocation design	19 Calendar Days
Task 7: Post-design services	730 Calendar Days

Written requests shall be submitted to the Project Manager for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Consultant 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 consultant, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Consultant's control.

SECTION V
RENEWAL OPTION

N/A

SECTION VI
COMPENSATION

Design, Permitting, and Final Plan Services for Bayshore Blvd Multimodal Corridor Improvements Project

This is a Lump Sum Contract per the Fee Schedule Table below, with a Contract total of **\$ 976,197.47**. The City will not pay for out-of-pocket expenses including, but not limited to, office & utilities, sub-consultants fees, or any reimbursable expense. There will be no additional amount paid for reimbursable expenses. All Lump Sum Amounts are “Not to Exceed” amounts.

Payments will be disbursed in the following manner:

Tasks – Descriptions	Fees
Task 1A – 1D Research	\$284,135.33
Task 2 30% Design Plan	\$144,079.96
Task 3 60% Design Plan	\$323,411.33
Task 4 90 % Design Plans	\$91,580.99
Task 5 100% Design Plans	\$43,560.32
Task 6 Utility Relocation Design	\$76,450.00
Task 7 Post Design Services	\$9,979.54
Reimbursable Expenses	\$3,000.00
Total Cost	\$976,197.47

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 Consultant has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made, 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.

The Consultant 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 Consultant 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 their personal knowledge that the releases and receipts include labor and materials for which a lien could be filed. Consultant shall use the lien waiver template provided in the Florida Statutes.

All invoices and correspondence relative to this Contract must contain the City’s Contract number and Purchase Order number, detail of services with prices that correspond to the Contract, a unique invoice number and partial and final release of liens.

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

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

All invoices are to be sent to the assigned Project Manager for this 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 - Consultant is responsible for all federal, state, and local taxes and other charges related to the performance of this contracts.

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. 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 VIII **CONFORMANCE WITH PROPOSAL**

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Consultant pursuant to the Solicitation and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Consultant 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. 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 Consultant 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 and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Consultant 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 immunity pursuant to Section 768.28, Florida Statutes, and as may be amended from time to time, 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, and/or 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.

Workers' Compensation Insurance & Employer's Liability: The Consultant shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. 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. Should scope of work performed by the Consultant qualify its employee for benefits under Federal Workers' Compensation Statute (for example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

Commercial General Liability Insurance: The Consultant 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

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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

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 consultants 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 insurance, 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, Business Auto Liability, and Professional 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 shall be listed as additional insured - Contract #20230118 Design, Permitting, and Final Plan Services for Bayshore Blvd Multimodal Corridor Improvements Project.**" 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. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Consultant 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. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

Business Automobile Liability Insurance: The Consultant 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 Consultant does not own any automobiles, the Business Auto Liability requirement shall be amended allowing Consultant 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 must be provided. Coverage shall apply on a primary and non-contributory basis.

Professional Liability Insurance: Contractor shall agree to maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$2,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the City reserves the right, but is not obligated, to review and request a copy of Contractor's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, Consultant warrants that 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, Contractor shall agree to purchase a SERP with a minimum reporting period not less than four (4) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

Waiver of Subrogation: By entering into this Contract, the Consultant agrees 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 the Consultant 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.

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

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

The Consultant 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 is not obligated, 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 Consultant to execute the contract and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment of the award.

SECTION XII **ACTS OF GOD**

The Consultant 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 Consultant 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 Consultant, 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

Consultant 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 Consultant nor any Sub-Consultant 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 Consultant 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. Consultant will comply with all requirements of [28 C.F.R. § 35.151](#). Consultants and Sub-Consultant, shall comply with [§ 119.0701, Fla. Stat.](#) The Consultant and Sub-Consultant, are to allow public access to all documents, papers, letters, or other material made or received by the Consultant 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 Consultant shall comply with Florida's Public Records Law. CONSULTANT'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Consultant 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](#).
2. During the term of the contract, the Consultant 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. Consultant's records under this

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Contract include but are not limited to, supplier/subconsultant invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.

4. The Consultant agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Consultant 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 consultant 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 Consultant, or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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
pr@cityofpsl.com

TRADE SECRETS

Any material submitted to the City that Contractor contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including chapter 119, Florida Statutes) ("Trade Secret Materials"), must be separately submitted and conspicuously labeled: "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, simultaneous with the submission of any Trade Secret Materials, the Contractor shall provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under section 688.002, Florida Statutes, and stating the factual basis to support the attestation. If a third party submits a request to the City of records designated by the Contract as Trade Secret Materials, the City shall refrain from disclosing the Trade Secret

Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by the Contractor. Contractor shall indemnify and defend the City, its employees, agents, assigns, successors, and subcontractors from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorney's fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

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 Consultant 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 Consultant 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. Consultant 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 Consultant 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 Consultant, the City may, without prejudice to any other remedy he may have, correct such deficiencies. The Consultant 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 Consultant of his responsibility to remedy any deviation, deficiency, or defect.

Authority - The Consultant 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 Consultant 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 Consultant. 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 Consultant 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 and/or work shall be charged to the Consultant and may be deducted from any moneys due to the Consultant or his Surety.

Repair or Replacement - Should any defect appear during the warranty period, the Consultant 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 Consultant as required by these Specifications, or to correct work which has been improperly and/or inadequately performed by the Consultant as required in these Specifications, all expenses thus incurred by the City, in the City's option, will be invoiced to the Consultant and/or may be deducted from payments due to the Consultant. Deductions thus made will not excuse the Consultant from other penalties and conditions contained in the Contract.

SECTION XVI **SCRUTINIZED COMPANIES**

By entering into this Contract with the City, Contractor certifies that it and those related entities of Contractor, as defined by Florida law, are not on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, and are not engaged in a boycott of Israel. The City may terminate this Contract if Contractor or any of those related entities of Contractor, as defined by Florida law, are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the City reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the City determine that the conditions set forth in section 287.135(4), Florida Statutes, are met.

SECTION XXVII **CONTRACT ADMINISTRATION**

Amendments - The City and the Consultant 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 Consultant.

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 consultant contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon contract. Neither Consultant nor any of Consultant's agents, employees, subconsultants or consultants shall become or be deemed to become agents, or employees of the City. Consultant shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subconsultants, 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 Consultant represents and expressly warrants that all aspects of the Services provided or used by it shall, at a minimum, conform to the Standard of Care in the Consultant's industry which is the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. 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 Consultant 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 Consultant 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 Consultant for the Services provided in connection with the Contract.

Use of Name or Intellectual Property - Consultant 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 Consultant, 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.

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 Consultant'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 Consultant 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 Consultant(s) are advised that nothing contained in the contract or specifications shall create any contractual relations between the City and Sub-Consultant of the Consultant(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. Consultant(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 Consultant.

Permits - The Consultant 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 Consultant 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.

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. If Contractor sells all or a majority of its shares, merges with, or otherwise is acquired by or unifies with a third party, it shall notify the City within ten (10) days. If after such notice, the City determines in its sole discretion, it may terminate the Contract, without penalty.

SECTION XX **TERMINATION AND DELAYS**

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

- I. The Consultant 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 Consultant;
- II. The Consultant fails to make substantial and timely progress toward performance of the contract;
- III. In the event the Consultant 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 Consultant 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 Consultant terminates or suspends its business; or the City reasonably believes that the Consultant has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- V. The Consultant 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. If the City determines that the actions, or failure to act, of the Consultant, its agents, employees or subconsultants have caused, or reasonably could cause, life, health, or safety to be jeopardized;
- VII. The Consultant has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VIII. The Consultant 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 Consultant, the City shall provide written notice to the Consultant requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Consultant. 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 Consultant

Termination for Convenience - The City may, at any time, with or without cause, or for its convenience terminate all or a portion of the Contract upon thirty (30) days written notice to successful Consultant Any such termination shall be accomplished by delivery in writing of a notice to Consultant. Following termination without cause, the Consultant 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.

Termination for Non-Appropriation - The City is a governmental 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 Consultant 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 Consultant 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
TRUTH-IN-NEGOTIATIONS

In accordance with the provisions of Section 287.055, Florida Statutes, the Consultant 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 XXIV
CONFLICT OF INTEREST

The City hereby acknowledges that the Consultant may be performing professional services for private developers within the Treasure Coast area. Should a conflict of interest arise with employees working on Contract #20230071 (Potable Water Master Plan), between providing services to the City and/or other clients, the Consultant 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 Consultant shall disclose all of its Treasure Coast clients and related Scope of Work.

SECTION XXV
PROHIBITION AGAINST CONTINGENT FEES

The Consultant warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant 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 Consultant 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

Each party is responsible for its own attorney's fees for any action arising from or related to this Contract. Each party expressly waives any right to seek attorney's fees from the other party, regardless of the source of such right.

SECTION XXVII
CODE OF ETHICS

Consultant 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](#), and as may be amended from time to time.

SECTION XXVIII
POLICY OF NON-DISCRIMINATION

Consultant shall not discriminate against any person in its operations, activities, or delivery of services under this Contract. Consultant 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 provisions of this Contract shall be deemed severable and if any portion of the Contract is found invalid or unenforceable, it shall not affect the validity or enforceability of the other provisions herein.

SECTION XXX
AUDITS

The Consultant shall establish and maintain a reasonable accounting system that enables the City to readily identify the Consultant's assets, expenses, costs of goods, and use of funds throughout the term of the Contract for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The Consultant shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized

representative of the United States government, to access and examine, audit, excerpt and to make copies of all books, documents, papers, electronic or optically stored and created records or other records relating or pertaining to this Contract kept by or under the control of the Consultant, including, but not limited to those kept by the Consultant, its employees, agents, assigns, successors, and subconsultants. Such records shall be made available to the City during normal business hours at the Consultant's office or place of business. The Consultant shall not impose a charge for audit or examination of the Consultant's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Consultant for the cost of the audit and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Consultant's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the City's findings to the Consultant. Evidence of criminal conduct will be turned over to the proper authorities.

The Consultant shall ensure the City has these rights with Consultant's employees, agents, assigns, successors, and subconsultants, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Consultant and any subconsultants to the extent that those subcontracts or agreements relate to fulfillment of the Consultant's obligations to the City.

SECTION XXXI **ORDER OF PREFERENCE**

In the case of any inconsistency or conflict among the specific provisions of this Contract (including any amendments accepted by both the City and the Consultant attached hereto), the E-Bid (including any subsequent addenda and written responses to bidders' questions), and the Consultant's Response, any inconsistency or conflict shall be resolved as follows:

- (i) First, by giving preference to the specific provisions of this Contract.
- (ii) Second, by giving preference to the specific provisions of the E-Bid.
- (iii) Third, by giving preference to the specific provisions of the Consultant's Response, except that objections or amendments by a consultant that have not been explicitly accepted by the City in writing shall not be included in this Contract and shall be given no weight or consideration.

SECTION XXXII **FORCE MAJEURE**

Any deadline provided for in this Contract may be extended, as provided in this paragraph, if the deadline is not met because of one of the following conditions occurring with respect to that particular project or parcel: fire, strike, explosion, power blackout, earthquake, volcanic action, flood, war, civil disturbances, terrorist acts, hurricanes and acts of God. When one of the foregoing conditions interferes with contract performance, then the party affected may be excused from performance on a day-for-day basis to the extent such party's obligations relate to the performance so interfered with; provided, the party so affected shall use reasonable efforts to remedy or remove such causes of non-performance. The party so affected shall not be entitled to any additional compensation by reason of any day-for-day extension hereunder.

SECTION XXXIII **E-VERIFY**

In accordance with section 448.095, Florida Statutes, the Contractor agrees to comply with the following:

1. Contractor must register with and use the E-Verify system to verify the work authorization status of all new employees of the Contractor. Contractor must provide City with sufficient proof of compliance with this provision before beginning work under this Contract.
2. If Contractor enters into a contract with a subcontractor, Contractor must require each and every subcontractor to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontractor with an unauthorized alien. The Contractor shall maintain a copy of each and every such affidavit(s) for the duration of the Contract and any renewals thereafter.
3. The City shall terminate this Contract if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.
4. Contractor shall immediately terminate any contract with any subcontractor if Contractor has, or develops, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Contractor knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor.
5. The City shall terminate this Contract for violation of any provision in this section. If the Contract is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates this Contract under this section, the Contractor may not be awarded a public contract for a least one (1) year after the date on which the Contract was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of the contract.
6. The City, Contractor, or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Contract was terminated. Such a cause of action must be filed in accordance with the Venue provision otherwise provided herein.

SECTION XXXIV **CONSTRUCTION**

The title of the section and paragraph headings in this Contract are for reference only and shall not govern, suggest, or affect the interpretation of any of the terms or provisions within each section or this Contract as a whole. The use of the term "including" in this Contract shall be construed as "including, without limitation." Where specific examples are given to clarify a general statement, the specific language shall not be construed as limiting, modifying, restricting, or otherwise affecting the general statement. All singular words and terms shall also include the plural, and vice versa. Any gendered words or terms used shall include all genders. Where a rule, law, statute, or ordinance is referenced, it shall mean the rule, law, statute, or ordinance in place at the time the Contract is executed, as well as may be amended from time to time, where application of the amended version is permitted by law.

The parties have participated jointly in the negotiation and drafting of this Contract, and agree that both have been represented by counsel and/or had sufficient time to consult counsel, before entering into this Contract. In the event an ambiguity, conflict, omission, or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the parties, and there shall be no presumption or burden of proof or persuasion based on which party drafted a provision of the Contract.

SECTION XXXV
NON-EXCLUSIVITY

Contractor acknowledges and agrees that this Contract is non-exclusive.

SECTION XXXVI
DISCRIMINATORY, CONVICTED, AND ANTITRUST VIOLATOR VENDOR LISTS

Contractor certifies that neither it nor any of its affiliates, as defined in the statutes below, have been placed on the discriminatory vendor list under section 287.134, Florida Statutes; the convicted vendor list under section 287.133, Florida Statutes; or the antitrust violator vendor list under section 287.137, Florida Statutes. Absent certain conditions under these statutes, neither contractors nor their affiliates, as defined in the statutes, who have been placed on such lists may submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

SECTION XXXVII
COOPERATION WITH INSPECTOR GENERAL

Pursuant to section 20.055, Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Contractor understands and will comply with this statute.

SECTION XXXVIII
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)

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

STATE OF FLORIDA §
COUNTY OF ST. LUCIE §

Before me, the undersigned authority, personally appeared affiant Aniruddha Gotmare, 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 **Design, Permitting, and Final Plan Services for Bayshore Blvd Multimodal Corridor Improvements Project, Contract #20230118.**

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 include 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

Scalar Consulting Group Inc.
Name of Firm

By: *Aniruddha Gotmare*
President

The foregoing instrument was acknowledged before me by Aniruddha Gotmare who has produced _____ as identification or is personally known to me.

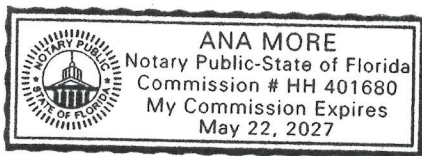
WITNESS my hand and official seal in the State of County last aforesaid this 26th day of August, 2024.

(SEAL)

Ana More
Signature

Ana More
Notary Name (typed or printed)

Notary Public
Title or Rank



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

CITY OF PORT ST. LUCIE FLORIDA _____

By: _____ By: _____
Purchasing Agent Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me by [] physical presence or [] online notarization, this _____ day of _____, 20____, by _____ who is [] personally known to me, or who has [] produced the following identification:

_____.

Signature of Notary Public

Print Name of Notary Public
Notary Public, State of Florida
My Commission expires:

NOTARY SEAL/STAMP