

**CITY OF PORT SAINT LUCIE
CONTRACT # 20200025**

This Contract is for a Master Plan for "The Port" District ("The Riverwalk District"), executed this _____ day of October, 2020, 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" party of the first part, and *LandDesign, Inc., 100 South Orange Avenue, Suite 700, Orlando, FL, 32801 Telephone No. (407) 270-7800*, hereinafter called "Consultant", party of the second part.

**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 for Professional Services for a Master Plan for "The Port" District ("The Riverwalk District") as well as other tasks (Work) more specifically described in this Contract; and

WHEREAS, Consultant is qualified, willing and able to provide the Scope of Services and work on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this Contract with Provider to perform the Scope of Services and work/services specified and, in an amount, agreed to 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.

Consultant: LandDesign, Inc.
Chad Kovaleski, Principal
100 South Orange Avenue, Suite 700
Orlando, FL, 32801
407-270-7800
Email: ckovaleski@landdesign.com

City Contract Administrator: Procurement Management Department
Jason Bezak, Procurement Agent I
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099
772-344-4068 / FAX 772-871-7337
E-mail: JBezak@cityofpsl.com

City Project Manager: Parks and Recreation Department
Kelly Boatwright, CPRP, Project Manager

2195 SE Airoso Boulevard
Port St. Lucie, FL 34984-5099
Telephone: 772-871-5099
Email: KBoatwright@cityofpsl.com

SECTION III
DESCRIPTION OF SERVICES TO BE PROVIDED

Scope of Work-

PROJECT INITIATION

PHASE 100 - \$20,000

A. Data + Background Information Collection

Prior to a Kick-off Meeting, our team will prepare a data needs inventory to identify the types and formats of data ideal for the plan update - including geographic, demographic, and economic data that is available. It will also include a preliminary list of plans and studies to be reviewed and considered in the development of the Plan. We will compile and assess GIS data layers available from the City and identify additional GIS data layers available from other sources that will augment the analysis.

To the extent available, Plans and data will be provided by City to the consultant team. These may include GIS layers for study areas, Construction Document plans for all projects under construction or already built - Botanical Gardens, Westmoreland Middle Tract (Rivergate South Historic Homes, Rivergate South Playground, Rivergate South Restaurant Site, Rivergate South Conservation Tract), North Fork Boat Ramp Park/ Veterans Park at Rivergate Boat Ramp, The Promenade, Bridge Plaza, Veterans Memorial Park, and Lyngate Park, any plans for Veterans Memorial Parkway, Bathymetric Data for River, Mitigation Bank Land/ location, Midport Lake, Tom Hooper Park, and all current and future Pedestrian Boardwalks spanning the site.

B. Kick-off Meeting with Client + Virtual Tour

The LandDesign team will conduct a (2-3 hour) Virtual Site visit and discussion with stakeholders to further our understanding of the current conditions. The following will be discussed: 1.) Project schedule, 2.) the characteristics of the planning area (positive and negative) from the Project Management Team's point of view, 3.) initial thoughts on issues/ challenges and recent efforts by the City to address them, and 4.) other relevant information (i.e., plans of approved developments, capital investments, etc.) We will:

- Further define project and project objectives
- Further define expectations
- Review existing information and information provided by the City
 - Target/ highlight any critical missing information
- Finalize deliverables
- Map out the project goals and key milestones.

Meetings: Virtual Kick-off/ 2-3-hour virtual study area visit.

Timeline: First 2 to 5 Weeks after Notice to proceed and contract finalization.

EXISTING CONDITIONS ASSESSMENT

PHASE 101 - \$49,000

A. Review of Data, Regulations, Plans + Studies T

The team will review relevant regulations, plans and studies (supplied by the City from list provided) to glean from them details, particularly recommendations, to be considered in the plan update.

Our team will also review information supplied by the Client (or identified by the City related to local services, programs, initiatives and private investments that will likely have a bearing on future growth and development in the planning area. This information will be used in combination with information acquired through other sources in the assessment of current conditions and considered in the development of implementation strategies once the Plan begins to take shape. The team to prepare:

- Inventory/ Site Assessments - *Mapping*
- Update base plans in critical areas of potential intervention – *Define project limits/ set parameters*
- Identify physical, environmental, and regulatory constraints and opportunities and plan/ diagram them - *Mapping*
- Overall Planning and Individual project identifications/ feasibility - *Mapping*
- Look around the region, understand the competition and gain an understanding of the alternative places – *Site Visit or Desktop Research*
- Will also look at this area "from the water," including the boating community, non-motorized recreation water uses, and access from the water.

B. Mapping

Our team will utilize (GIS) technology to update maps to graphically represent the current conditions of the study area. All maps will be produced using only existing, readily available data provided or acquired as shapefiles.

C. The Riverfront and Port District Today

We will inventory current conditions to provide a "snapshot" of the planning area. These conditions will be assessed to determine the issues and opportunities to be considered as the Plan is updated.

Land Use + Urban Design – This will simultaneously examine the range of uses that are in the planning area; the scale and intensity of development at the block level; the arrangement of various uses, buildings relative to the street, public spaces, amenities, and streetscape/ multi-modal. In addition, we will look to identify available land - vacant parcels and underutilized parcels - to determine any land supply available for future opportunities (i.e., infill and redevelopment). We also need to understand the projects that are happening now or very soon that could influence our studies.

Important Systems to Consider

- Transportation (Motorized, Non-motorized, water/ land)
- Utilities
- Stormwater management – We will note any documented issues and efforts to protect the River/ Watershed / Green Infrastructure
- Environment/ Natural Resources
- Boating Infrastructure
- Parks, Greenways, and other elements of the public realm

Deliverable (A-C): Inventory and Analysis plans will be provided and utilized for the next step in the process. Opportunities and constraints and any other pertinent diagrams and maps will be created to aid in the continued discovery process.

D. Discovery / Stakeholder Interviews and Site Tour

As a continuation of this task and after the preliminary mapping/ inventory is done, our team will spend time in Port St. Lucie to experience the site from both land and water as we are able due to the current COVID-19 situation. We will be able to confirm anything done during the desktop research and analysis phase and confirm preliminary findings. We plan to:

1. Host/ Participate in initial Council Member one-on-ones (virtual or in-person based on each council members preference and/ or availability) and have team discussions of their early assumptions, wants, needs, desires and expectations of the Masterplan Project.
 - Explain the process for developing the Plan, present current issues and opportunities as determined by the project team in the initial assessment of existing conditions and hear about the issues from the perspectives of the Project Management Committee members. More importantly, we will engage the committee in an exercise to begin helping us articulate the Vision and Objectives that will guide the development of the Plan.
2. Set up and interview key stakeholders (virtually): A list and contact information will be provided by the Project Management Team prior to organizing this phase, but they may include the following: *Property owners/ business owners adjacent to the project, Key residents, the Port District Design Team, Other Private investors/ owners of properties adjacent to the study area, Planning and Zoning Staff, Public works staff, End Users (River users/ groups, boating groups, etc.) Friends of the Botanical Gardens.*
3. When some team members are interviewing stakeholders and having conversations – others will be out exploring the community, visiting other projects, and learning about the area.

E. Public Meeting/ Open House #1

Host a physical and simultaneously virtual Public Meeting/ Open house to go over findings, analysis, set project planning parameters and lay out timeline moving forward for the Masterplan effort.

- Polling/ Survey information to be done
- Date/ Timing to be determined.

Deliverable: Technical memo and presentation of findings - This will summarize the results of the Phase 100/ 101 work, highlighting current issues and opportunities related to the plan elements that should be considered in the Plan. It will include the maps produced in the previous task and information/ findings from stakeholder meetings, site visits, Council discussions and Project Management Committee meetings. Delivered 1-2 weeks after the site visit and Committee meetings.

Meetings: One-Day Meeting on site (exploring, touring, experiencing); Several Virtual meetings over 1 weeks' timeframe to include: Stakeholder interviews/ discovery, Project Management Committee Meeting, Council discussions, and a public meeting/ open house.

Timeline: 6 to 12 Weeks from Notice to proceed and contract finalization.

CONCEPTUAL PLAN

PHASE 102 - \$52,000

A. Preliminary Concept(s)

In preparation for the Workshop, our team will prepare an initial Concept Plan based on the Vision and Objectives defined by the Project Management Committee, stakeholder meetings, site visits and Council discussions. This will be a preliminary plan that depicts a development pattern that aligns with the Vision and Objectives. We will also:

- Test the program scenarios and look at preliminary Phasing/ initial thoughts about the project.
- Continuing to develop the narrative

- Exploring who we are and understanding how we will become a place that translates the essence of the region and "The Port" District.
- Elaborate and develop the branded "Port District" and work to align with our project vision.
 - Utilize imagery and other supporting visual materials to clearly articulate the Vision to the team.
- Plan and Design Development
 - We will look for: Opportunities to connect users with the water by identifying ways to activate the river's edge, connect spaces, etc.
 - We will look at creating great streets and places within the Port District that promote economic vitality, environmental conservation, health, and wellness.
 - Look to create a place that feels grounded in overall Port St. Lucie and the community, creating a great anchor for locals, but a premier destination for all.
 - Incorporate previous ideas conceptualized for areas of the District including the "Riverwalk Village".

B. Project Management Committee Meeting (Workshop) + Meetings

This workshop is a one-day event (virtual) during which we will work with City staff, Project Management Committee members and key stakeholders to review and evaluate the draft concept plan(s) prepared by our team. This phase to also include a review of conceptual options with City Council (virtual) and an update on our progress/ review plans to date.

- We will work with the City and appropriate agencies to develop an ongoing work plan for any individual groups/ CRA/ others to follow outlining the path toward implementation of any of this Plan.
- Continued Stakeholder Discussions during this time (virtual)
- Informational Pieces to be developed to facilitate these discussions.

C. Public Meeting/ Open House #2

Once the Project Management team and Council is comfortable with progress/ concept elements, we will host a City Event/ Participate in an open house (virtually and in-person) to present preliminary planning concepts/ ideas/ images and solicit feedback.

- Polling/ Survey information to be done
- Match previously done polling examples that have been successful.

D. Refinements to Concept Plan + Graphics

The Preferred Concept Plan will be refined after the workshop and open house.

- Explore planning alternatives focusing in on preferred ideas, land use, and broaden our understanding of the narrative.
- Work to translate this narrative with imagery, develop planning study, three-dimensional views/ studies, perspectives, massing, etc.
 - During this process we will generate various planning approaches in response to the programmatic scenarios put forth by the team and research done for uses, etc.
 - We will also study alternatives and scenarios for uses - civic, commercial, residential, hospitality, office, and obviously open space ideas.
 - These studies may be a combination of phasing options
 - Our master plan/ vision will be the guideline.
- Continue to discuss the recommendations and implementation strategies with the project management committee (Virtual)
- Continue to discuss concept plan refinements with City Council members one-on-one (virtual or in-person based on each council members preference and/ or availability) Feedback to be incorporated into the framework and phasing Plan. The purpose of these ongoing meetings is to highlight/ define specific projects within the masterplan and determine phasing/ priority of projects. Examples of implementation strategies to be discussed are plans, programs, projects and policies pertaining to the following:

- **Economic Development** - Factors to consider in attracting desired uses, such as strategies and programs for improving sense of place to make it more attractive for new investment/reinvestment.
- **Future Land Use** - Changes to the land development regulations and/or the Zoning Map to make this node more attractive to developers and to facilitate the type of development depicted in the Plan.
- **Urban Design** - Improvements to the built environment, particularly the public realm (i.e., public park spaces and plazas, streetscape, scale, and character of the architecture that defines these spaces
- **Transportation Improvements** - Network improvements that generally maintain the roadways but emphasize bicycle and pedestrian facilities for more choices, better mobility and enhanced placemaking. To focus on water-based transportation, motorized and non-motorized.
- **Adjacent Parcels** – Influence and studies of them that would be important.

Meetings: A.) Half-Day Workshop with Project Management Committee, B.) One-on-Ones with Council (virtual or in-person based on each council members preference and/ or availability), C.) One (1) Public meeting/ open house (virtual/ in-person combo) and D.) follow-up project management committee virtual meeting.

Timeline: 10 to 20 Weeks from Notice to proceed and contract finalization.

FINAL MASTER PLAN

PHASE 103 - \$79,000

A. Draft Master Plan

Based on the results of the two previous phases, we will develop the first draft of the Master Plan. The Master Plan will refine the concept plan(s) based on the Project Management Committee, Council and Community feedback.

B. Project Management Committee Meeting (Web Based)

This draft will be provided to the Project Management Committee for review and comment during the meeting with this committee. With feedback received, we will further refine and Finalize the Master Plan.

- Design Review of Draft Masterplan and Masterplan Package.
- Review one-on-one with Council Members – Timing to be determined. (*Virtual or in-person based on each council members preference and/ or availability*)
- Preliminary Cost Estimates of specific projects to be included
- Implementation Strategies/ phasing

C. Finalize Plan

LandDesign will synthesize the input received and determine what modifications, if any, should be made to the Masterplan. Such revisions will be discussed with the Client, and then the plan will be finalized and delivered to the Client in an electronic format.

- Finalizing the packaging and process.
- We will incorporate written text, imagery, plans, drawings, and illustrations to clearly communicate the ideas and concepts as we flesh out the integration of all aspects of the Vision.
- Final Development Program and Budget
- Fact Sheets of each project, cost, etc.
- Priority projects and rankings of those projects within the Masterplan

D. Plan Adoption – Presentation to City Council

Our team will attend a regularly scheduled Council meeting make the Masterplan Presentation to the City Council as part of the adoption process. An updated PowerPoint presentation that summarizes the final Plan and Vision will be prepared for use

by the team/ Client. Following the meeting, the PowerPoint presentation will be delivered to the Client as a PDF for uploading onto the City's website as well as a copy of the Final Masterplan Vision Book and a 24x26 Masterplan image.

Meetings: Draft Masterplan Meeting. Final Vision and Port District Masterplan Presentation.

Timeline: 21 to 28 Weeks from Notice to proceed and contract finalization.

*Masterplan and Vision Document to be provided to the Project Management Committee/ team 3 weeks prior to the Council meeting it will be presented at. This 3-week time is assumed to be after the 195-day working period.

**SECTION IV
TIME OF PERFORMANCE**

Contract period shall begin on **October 27, 2020** and terminate on **May 10, 2021** for a total of **195** calendar days. 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 this contract 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 this contract has been rendered. 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**

There are no renewal options for this contract.

**SECTION VI
COMPENSATION**

The total amount to be paid by the City to the Consultant is on a time and expense basis per the fee schedule below. Payments will be disbursed in the following manner:

PHASE 100-PROJECT INITIATION	\$20,000
PHASE 101-EXISTING CONDITIONS ASSESSMENT	\$49,000
PHASE 102-CONCEPTUAL PLAN	\$52,000
PHASE 103-FINAL MASTER PLAN	\$79,000
Grand Total:	\$200,000

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 as a consequence of the suspension or discontinuance of the work.

Invoices for services shall be submitted once a month, by the 10th of the month, and payments shall be made within 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 the submitted invoice is accompanied by adequate supporting documentation and approved by Project Manager.

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 asserting personal knowledge that the releases and receipts include labor and materials for which a lien could be filed.

All invoices and correspondence relative to this Contract must contain the Purchase Order number or VISA number, Contract number, detail of items with prices that correspond to the Contract, unique invoice number and partial or final release of liens.

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

All work compensated for under this Contract, including partial payments, shall become the property of the City of Port St. Lucie without restrictions or limitations. Work under this Contract shall include, but not be limited to, sketches, tracings, drawings, computations, details, design calculations, plan, electronic files and other related documents. The Consultant shall not be held liable for any reuse of the work and shall not be held liable for any modifications made to the work by others.

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.

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 Consultant pursuant to the Request for Proposal 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**

Consultant agrees to indemnify 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 reasonable, 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 Consultant, agents, laborers, subcontractors or other personnel entity acting under Consultant control in connection with the Consultant's performance of services under this Contract and to that extent Consultant 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 reasonable attorney's fees expended by the City in defense of such claims and losses including appeals. That the aforesaid hold-harmless Contract by Consultant 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 Consultant

or any agent laborers, subcontractors or employee of Consultant regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Consultant 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 Consultant 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, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by 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 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.

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

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
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. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage 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, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability policy and Business Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and shall include Contract: #20200025 Project Name: Master Plan for "The Port" District ("The Riverwalk District") shall be listed as additionally insured."** The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the 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 endorsements shall be attached to the Certificate of Insurance. All independent Consultants and Sub-Consultants utilized in this project shall furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

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 shall be provided. Coverage shall apply on a primary basis.

Professional Liability: Consultant 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 not the obligation, to review and request a copy of Consultant's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, the Consultant warrants the retroactive date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, Consultant shall agree to purchase a SERP with a minimum reporting period not less than five (5) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

Waiver of Subrogation: The Consultant 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 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. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Consultant enter into such a Contract on a pre-loss basis.

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 of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the Proposer's most recent annual report or audited financial statement.

It shall be the responsibility of the Consultant to ensure that all independent Consultants and/or Sub-Consultant's comply with the same insurance requirements referenced above.

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 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 Consultant to execute the contract and/or punctually deliver the required insurance, 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 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 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. 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:

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

1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
2. During the term of the contract, the 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
pr@cityofpsl.com**

**SECTION XV
INSPECTION AND CORRECTION OF DEFECTS**

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

to the Consultant(s) and/or may be deducted from payments due to the Consultant(s). Deductions thus made will not excuse the Consultant(s) from other penalties and conditions contained in the Contract.

SECTION XVI **SCRUTINIZED COMPANIES**

Section 287.135, Florida Statutes, 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/Performance/Quarterly/2017_12_13_Web_Update_PFIA_Prohibited_List.pdf?ver=2017-12-13-144624-667

SECTION XVII **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/her self in an unacceptable manner shall be removed from the project at the request of the City Manager.

Patent Fees, Royalties, and Licenses – If the Consultant requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Consultant 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 Consultant 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.

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

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.

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).

SECTION XVIII **ASSIGNMENT**

The Consultant 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 XIX
TERMINATION AND DELAYS

A. Termination for Breach of Contract. If the CONSULTANT refuses or fails to deliver material as required and/or prosecute the work with such diligence as will insure its completion within the time specified in this Contract, the City by written notice to the CONSULTANT, may terminate CONSULTANT's rights to proceed. Upon such termination, the City may take over the work and prosecute the same to completion, by Contract or otherwise, and the CONSULTANT and his sureties shall be liable to the City for any additional cost incurred by it in its completion of the work. The City may also in event of termination obtain undelivered materials, by Contract or otherwise, and the CONSULTANT and his sureties shall be liable to the City for any additional cost incurred for such material. CONSULTANT and his sureties shall also be liable to the City for liquidated damages for any delay in the completion of the work as provided below. If the CONSULTANT's right to proceed is so terminated, the City may take possession of and utilize in completing the work such materials, tools, equipment and facilities as may be on the site of the work and necessary therefore.

B. Excusable Delays. The right of the CONSULTANT to proceed shall not be terminated nor shall the CONSULTANT be charged with liquidated damages for any delays in the completion of the work or delivery of materials due to: (1) any acts of the Federal Government, including controls or restrictions or requisitioning of materials, equipment, tools or labor by reason of war, national defense or any other national emergency, (2) any adverse acts of the City, (3) causes not reasonably foreseeable by the parties at the time of the execution of the Contract that are beyond the control and without the fault or negligence of the CONSULTANT, including but not restricted to, acts of God, acts of the public enemy, acts of another CONSULTANT in the performance of some other CONSULTANT with the City, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions, and (4) any delay of any Subcontractor occasioned by any of the above mentioned causes. However, the CONSULTANT must promptly notify the City in writing within two (2) calendar days of the cause of delay. If, on the basis of the facts and the terms of this Contract, the delay is properly excusable the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

C. Termination by the City. The City may terminate this Contract with or without cause by giving the CONSULTANT thirty (30) day notice in writing. Upon delivery of said notice and upon expiration of the thirty (30) day period, the vendor. CONSULTANT shall discontinue all services in connection with the performance of this Contract and shall proceed to cancel promptly all related existing third party Contracts. Termination of the Contract by the City pursuant to this paragraph shall terminate all of the City's obligations hereunder and no charges, penalties or other costs shall be due CONSULTANT except for work timely completed.

D. Termination for Insolvency. The City also reserves the right to terminate the remaining CONSULTANT SERVICES to be performed in the event the CONSULTANT is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.

SECTION XX
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 XXI
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 XXII
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 XXIII
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 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 XXIV
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 XXV
CODE OF ETHICS

The 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.

SECTION XXVI
POLICY OF NON-DISCRIMINATION

The 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 XXVII
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 XXVIII
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)

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

CITY OF PORT ST. LUCIE FLORIDA

LANDDESIGN, INC.

By: _____
Purchasing Agent

By: Brian Forster
Authorized Representative

State of: Florida County of: Orange

Before me personally appeared: Brian Forster
(Please print)

Please check one:

Personally known Produced Identification: _____
(Type of identification)

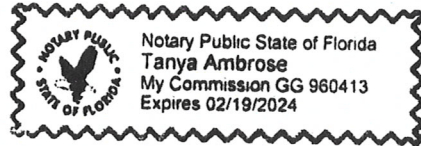
and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.
(s/he)

WITNESS my hand and official seal, this 9th day of October, 2020.

Tanya Ambrose
Notary Signature

Notary Public State of Florida at Large.

My Commission Expires 2/19/2024.



(seal)

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

STATE OF FLORIDA §
COUNTY OF §

Before me, the undersigned authority, personally appeared affiant Brian Forster, 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 Consultant Service and is entering into an agreement with the City of Port St. Lucie, St. Lucie County, Florida to provide these services for a project known as Request for Proposals (RFP) # 20200025 for a Master Plan for "The Port" District ("The Riverwalk District").

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

LandDesign, Inc.

Name of Firm

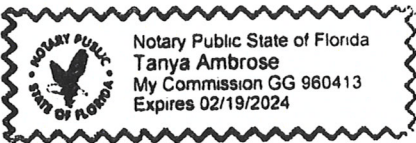
Brian Forster

~~President~~ Managing Principal

The foregoing instrument was acknowledged before me by Brian Forster who is personally known to me.

WITNESS my hand and official seal in the State of County last aforesaid this 9th the day of October, 2020.

(SEAL)



Tanya Ambrose
Signature

Tanya Ambrose
Notary Name (typed or printed)

Notary
Title or Rank