

**CITY OF PORT ST. LUCIE
CONTRACT #20230058**

This Contract executed this _____ day of _____, 2023, 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 Treasure Coast Lawns, Inc., hereinafter called "Contractor" or "Proposer." City and Contractor may be referred to herein individually as a "party" or collectively as the "parties."

**SECTION I
RECITALS**

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

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

WHEREAS, the City wishes to contract with a contractor to provide Grounds Maintenance at Various Utility Facilities based on the terms and subject to the conditions contained herein; and

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

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

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

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

**SECTION II
NOTICES**

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

Contractor: Treasure Coast Lawns, Inc.
Jeff Lee
2674 Conifer Dr.
Fort Pierce, FL 34951
Telephone: 772-971-2649
Email: Jagg2000@bellsouth.net

City Contract Administrator: Nadia Tourjee
Procurement Agent I – Procurement Management Department
121 SW Port St. Lucie Boulevard

Port St. Lucie, FL 34984-5099
772-871-5224 / FAX 772-871-7337
E-mail: Ntourjee@cityofpsl.com

City Project Manager: Bruce Sloan
Utility Systems Dept.
City of Port St. Lucie
3721 SW Darwin Blvd.
Port St. Lucie, FL 34953
Telephone: 772-871-7334
Email: Bsloan@cityofpsl.com

SECTION III **DESCRIPTION OF SERVICES TO BE PROVIDED**

The scope of work that the Contractor has agreed to perform pursuant to **E-BID - #20230058 for Grounds Maintenance at Various Utility Facilities**, and all addenda.

1. Scope of Work

Specific Duties to be Performed: Grounds Maintenance at Various Utility Facilities

The City has an estimated 12 locations requiring mowing and grounds maintenance services for the Utilities Department. The Contractor will be required to maintain additional sites as growth continues throughout the City. Price for additional locations will be mutually agreed upon by all parties. The City reserves the right to modify the level of service due to environmental conditions, funding availability, and/or the demands from the public.

- 1.1. Work to be performed by the Contractor under this section includes the following: furnishing all labor, materials, equipment, and supervision required to perform the mowing and maintenance of the areas specified by City's Project Manager. Mowing & grounds maintenance shall include all necessary Services described to maintain a neat and proper appearance with each mowing cycle. The Contractor shall employ a sufficient number of personnel so that all levels of service are not adversely affected.
- 1.2. **Schedule** - The frequency of Mowing and Grounds Maintenance Services for this Contract vary and are identified below. The Annual Frequency is based on the City's Fiscal year (Oct.1st – Sept. 30th).
 - The Contractor shall perform work in accordance with the provided Schedule issued by the Project Manager, or his or her designee and shall not to exceed the annual frequency identified.
 - The Contractor is responsible to ensure the specified annual frequency is not exceeded. Unauthorized services may be subject to non-payment.
 - If the Contractor's work does not meet the completion target per the Contract requirements, the Contractor shall promptly take such action as is necessary to remedy the delay and shall submit a supplementary schedule or corrective action plan to the department for approval demonstrating the manner in which the delay will be remedied.

- The Project Manager shall maintain a sign-off sheet to track the lawn maintenance schedule. The sign-off sheet will be initialed and dated for each occurrence and will be used for invoice approval.

Mowing and Landscape Maintenance Schedule for Westport, Southport, Southport Booster Pump Station, the Westport Water Repump Station, and the Reuse Meter Stations		
Line #	Location	Address
1	Westport WWTP (approx. 24 acres)	3721 SW Darwin Blvd
2	Westport Water Repump Station (Approx. 1 acre)	3721 SW Darwin Blvd
3	Southport WWTP & Booster Pump Station (SPBPS) (approx. 11 acres)	1615 SE Sunshine Ave
4	Westport WWTP Perimeter Road, Fence Line, & Percolation Ponds (Approx. 18.5 acres)	3721 SW Darwin Blvd
5	Westport WWTP Generator Area (Approx. 0.76 acres)	3721 SW Darwin Blvd
6	Ballantrae Reuse Meter Station (Approx. 500 sq. ft.)	Pine Valley St
7	Tesoro Reuse Meter Station (Approx. 1340 sq. ft.)	Southbend Blvd
8	The Floridian Reuse Meter Station (Approx. 644 sq. ft.)	SE Becker Rd
9	Veranda Gardens West Reuse Meter Station (Approx. 400 sq. ft.)	SE Veranda West Blvd
10	Veranda Gardens East Reuse Meter Station (Approx. 900 sq. ft.)	SE Butchart St
11	Veranda Gardens Preserve Reuse Meter Station (Approx. 576 sq. ft.)	SE Becker Rd
12	(Future) Veranda Estates Reuse Meter Station (estimated 576 sq. ft.)	SE Becker Rd

- 1.3. **Security** - The Contractor must adhere to Utility Security Procedures at each site.
- “Anyone performing work or visiting the water and wastewater treatment facilities, water re-pump, and wastewater booster pump-stations are required to contact the facilities responsible for that particular site when arriving at the gate and leaving.”
 - The Contractor must also notify plant staff via email or phone call when services at the remote sites have been completed.

- 1.4. **Safety** - The Contractor shall not commit or permit any reckless or dangerous conduct on City property at any time. This includes, but is not limited to, violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct. Contractor warrants that all persons assigned to perform services under this Contract are lawful employees of Contractor. The Contractor is solely responsible for training and supervising all employees with regards to safe work habits and proper use of all equipment. All safety incidents will be reported immediately to the City. All persons assigned to perform services under this Contract shall be qualified and legally authorized to perform such services.
- 1.5. **Quality Acceptance** - During the Contract period the Project Manager, or his or her designee, shall continually inspect the work that has been performed and notify the Contractor of any deficiencies that require correction. Any areas that are not maintained sufficiently will not be accepted. The Contractor shall be responsible to remedy all deficiencies within twenty-four (24) hours after being notified to be eligible for that month's service payment. Scalping and rutting of the turf constitutes a performance deficiency and must be repaired at no cost to the City before the next mowing cycle. Failure by the Contractor to resolve continued deficiencies in the mowing service quality may result in a Notice of Default and penalties, including termination of cause, under Section XX.
- 1.6. **Equipment** - Only equipment designed for performance of work described herein will be acceptable for operation. The equipment used must be in good operating condition at all times. All equipment used must have company identification signs including, but not limited to, trucks, boats, etc. The City may inspect the equipment anytime during the course of the Contract. Safety devices shall be properly installed and maintained at all times the equipment is in use. No equipment, regardless of width, shall be parked, staged, or left on City-owned property or roadway rights-of-way overnight or parked in the median without prior written approval from the City.
- 1.7. **Damages** - The Contractor shall prevent damage and preserve all property associated with, or located in the vicinity of, or is in any way affected by, the work. This applies to public and private property and/or utilities. Any damage occurring during mowing operations shall be reported immediately by the Contractor's Staff to the City Project Manager, or his or her designee. This includes damage to trees, plants, any components of the irrigation system, buildings, structures, parked vehicles, or other property of the City or the public. The Project Manager will determine what corrective action is required and inform the Contractor. A written incident report must be completed and submitted by the Contractor within twenty-four (24) hours of the event. The City Project Manager or his or her designee will supply report forms, as required, for Contractors to report any damages. Damages during times that City Offices are closed shall be reported to the Police Department Duty Officer with a request to call the City Project Manager or his or her designee, as necessary. If applicable, the City Project Manager or his or her designee, shall determine the cost of necessary repairs or replacement and advise the Contractor in writing. Where damages are involved, the City Project Manager and the Contractor shall mutually agree upon an acceptable cost. The Contractor shall be afforded the opportunity to have repairs made or provide replacement as approved by the City or shall punctually issue reimbursement within a time frame approved by the City. All such matters shall be put forth in writing and signed by both parties.
- 1.8. **Mowing** - The Contractor shall rake, vacuum, or otherwise remove all litter, trash, branches, and all other accumulated debris from grounds prior to mowing. All grass shall be mowed to a uniform minimum height of two inches (2") to three inches (3"). All mowed areas are to be cut with a rotary-

type mower with sharp blades giving the mowed area a neat and clean cut. Equipment shall have cutting blades maintained in optimal condition to ensure grass is evenly cut without a "tearing" effect, which would negatively affect growth, health, and appearance of grass. If sloped areas are too wet to be mowed, they may need to be cut with a weed-eater. Contractor shall make a reasonable effort to ensure that cuttings will not be discharged onto private property. After each mowing, the Contractor shall immediately remove all grass clippings from areas adjacent to those mowed, including but not limited to, walkways, curbs, driveways, roadways, buildings, fences, vehicles, etc. At no time shall any of the grass be discharged into a drainage inlet or bodies of water.

- 1.9. **Trimming / Power Blade Edging** – The Contractor shall perform trimming and edging before, during, or immediately after the commencement of every mowing. Trimming shall be done in a manner that will provide a uniform manicured appearance. This includes around or up to all posts, poles, planting beds, trees, ponds, curbs, walks, or any area that is not maintainable with a piece of mowing equipment. At no time shall any mechanized equipment (i.e., weed-eaters, mowers, etc.) come in contact with planted vegetation unless there is only a pruning of ornamental planted material. A circular space with a diameter equal to three feet (3') plus the caliper of the tree will be maintained around each tree. Uniform cutting and shaping of landscape material shall be performed with acceptable equipment deemed to be in good working order. Power equipment is required to have manufacturer installed safety equipment and sharp blades. Trimming shall be a minimum of thirty inches (30") outside of chain link fences. At no time shall any of the grass clippings be discharged into a drainage inlet or bodies of water. Caution shall be of utmost importance where people are present.
- 1.10. **Weed Control** - Weeds will be removed during the edging and trimming operation during each mowing cycle. Ground cover areas will also be maintained free of weeds with the perimeter edge of the ground cover edged and trimmed outside the ground cover bed. In the event that weeds, or other undesirable vegetation become prevalent to such an extent that either cut or uncut they threaten to smother the grass or landscaped species, they shall be removed by hand. The use of herbicide may be used in the rocked bed areas. The Contractor shall maintain each area of responsibility weed free at all times.
- 1.11. **Herbicides** - Herbicide may be applied only to rocked or graveled areas, along exterior bed lines, and impervious surfaces. Herbicides applied must at all times have indicator dye mixed in with chemicals to allow for monitoring and evaluation. A hood covering the herbicide applicator wand must be used at all times. Contractor will take all precautionary measures to ensure all herbicide treatments will not take place during high winds or rainstorms that may allow herbicide to come in contact with native or off target species.
- 1.12. **Crack and Joint Cleaning** – All cracks and joints in concrete and asphaltic concrete surfaces and brickwork will be cleaned by weed-eating down and weeds, blow the area clean, and then application of herbicide.
- 1.13. **Fertilizing or Pesticide** - No fertilizer or pesticides shall be used.
- 1.14. **Cleanup** - Contractor will be responsible to inspect and remove all trash (such as cigarette butts, debris, etc.) prior to the commencement of mowing and maintenance. Parking lots, driveways, walks, and any other similar areas present on the grounds shall be cleaned of cuttings and debris

by use of power and/or hand equipment. Such cuttings as may require cleanup shall be removed from the site by the Contractor on the date of service.

- 1.15. **Diseased or Damaged Plant Material** - Any sick, diseased, or damaged plant or tree material shall be punctually reported to the Project Manager or his or her designee.

SECTION IV **TIME OF PERFORMANCE**

The Contract Period start date will be _____ and will terminate two (2) years thereafter on _____. The Contractor will be required to commence work under this Contract within ten (10) calendar days after the start date identified in this Contract. In the event all work required in the bid specifications has not been completed by the specified date, the Contractor 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.

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 Contractor feels it has no control. Requests for time extensions shall be submitted immediately, but in no event, more than two (2) weeks upon occurrence of conditions, which, in the opinion of the Contractor, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Contractor's control.

SECTION V **RENEWAL OPTION**

In the event the Contractor offers in writing, prior to the termination of this Contract, to provide the identical materials required in this Contract for three (3) additional twelve (12) month terms for a total charge that is acceptable, then the City, without additional bidding or negotiation, may, with the mutual agreement of the Contractor, extend this Contract for three (3) additional twelve (12) month terms.

Economic price adjustments upward or downward may be considered at the time of renewal; adjustments must be agreed upon in writing by both parties.

SECTION VI **COMPENSATION**

The total amount to be paid by the City to the Contractor is on a per unit price basis listed on Schedule "A" for a total amount of **\$99,780.00**.

Payments will be disbursed in the following manner:

Grounds Maintenance Service Locations					
Line #	Location	Address	Annual Frequency	Rate per Location per Service	Annual Total
1	Westport WWTP	3721 SW Darwin Blvd	30	\$ 1,300.00	\$ 39,000.00
2	Westport Water Repump Station	3721 SW Darwin Blvd	30	\$ 200.00	\$ 6,000.00
3	Southport WWTP & Booster Pump Station (SPBPS)	1615 SE Sunshine Ave	30	\$ 1,250.00	\$ 37,500.00
4	Westport WWTP Perimeter Road, Fence Line & Percolation Ponds	3721 SW Darwin Blvd	6	\$ 1,000.00	\$ 6,000.00
5	Westport WWTP Generator Area	3721 SW Darwin Blvd	4	\$ 1,000.00	\$ 4,000.00
6	Ballantrae Reuse Meter Station	Pine Valley St	4	\$ 260.00	\$ 1,040.00
7	Tesoro Reuse Meter Station	Southbend Blvd	4	\$ 260.00	\$ 1,040.00
8	The Floridian Reuse Meter Station	SE Becker Rd	4	\$ 260.00	\$ 1,040.00
9	Veranda Gardens West Reuse Meter Station	SE Veranda West Blvd	4	\$ 260.00	\$ 1,040.00
10	Veranda Gardens East Reuse Meter Station	SE Butchart St	4	\$ 260.00	\$ 1,040.00
11	Veranda Gardens Preserve Reuse Meter Station	SE Becker Rd	4	\$ 260.00	\$ 1,040.00
12	(Future) Veranda Estates Reuse Meter Station	SE Becker Rd	4	\$ 260.00	\$ 1,040.00
TOTAL ANNUAL AMOUNT:					\$ 99,780.00

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

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

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

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

All invoices are to be sent to the assigned Project Manager for this Contract.

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

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

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

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

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

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

After the first twenty-four (24) months of the Contract, this Contract allows for an annual price redetermination. The Contractor must request such an order renewal in writing no later than sixty (60) calendar days prior to the anniversary of the Effective Date and must include in the written request documentation that the Contractor has incurred bona fide cost increases providing services under this Contract during the year in which the request was made. The City will not allow Contract adjustments up or down to exceed five (5%) combined total in any one (1) year. Any increases/decreases will be effective on the Contract anniversary date. The prices will be held firm for that period.

Price adjustment will be based on the annual index (Un-Adjusted) using the published figures two (2) months prior to the renewal date. The price adjustment will be calculated on a simple percentage method.

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 or her 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, memorialized in a signed writing, 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 Manager 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 Contractor pursuant to the Solicitation and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Contractor in relation to said proposal, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

SECTION IX
INDEMNIFICATION/HOLD HARMLESS

Contractor agrees to indemnify, defend, and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses, and expenses including, but not limited to, attorney's fees for personal, economic, or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions, or other wrongful conduct of Contractor, agents, laborers, subcontractors, or other personnel entity acting under Contractor control in connection with the Contractor's performance of services under this Contract. 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, and as may be amended from time to time.](#)

SECTION XI
INSURANCE

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained

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

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its 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 Contractor 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 Contractor 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 Contractor shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 person
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 Contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability 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 Pollution 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 and shall include Contract #20230058 Grounds Maintenance at Various Utility Facilities.**" Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days 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 Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

Business Automobile Liability Insurance: The Contractor 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 Contractor does not own any automobiles, the Business Auto Liability requirement shall be amended, allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Pollution Insurance: Contractor shall procure and agree to maintain in full force during the term of this Agreement, Pollution Liability Insurance in limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate, for any operations relating to the handling, storage, and transportation of hazardous materials and/or waste. The City of Port St. Lucie shall be listed as an additional insured. A waiver of subrogation shall be provided in favor of the City. Coverage shall apply on a primary and non-contributory basis.

Waiver of Subrogation: By entering into this Contract, Contractor 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 Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

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

It shall be the responsibility of the Contractor to ensure that all independent contractors and subcontractors comply with the same insurance requirements referenced herein. It will be the responsibility of the Contractor 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 Contractor, independent contractor, or subcontractor maintain higher limits than the minimums listed above, the City requires and shall be entitled to coverage for the higher limits maintained by Contractor/independent contractor/subcontractor.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella

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

The City by and through its Risk Management Department reserves the right, but 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. When a self-insured retention or deductible exceeds \$5,000, 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.

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

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

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

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

SECTION XIV **COMPLIANCE WITH LAWS**

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at their own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of [28 C.F.R. §](#)

[35.151](#), and as may be amended from time to time. Contractors and any subcontractor, shall comply with [§ 119.0701, Fla. Stat.](#), and as may be amended from time to time. The Contractor and any subcontractor, are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from [Art. I, § 24\(a\), Fla. Const.](#) and [§ 119.07\(1\)\(a\), Fla. Stat. \(2013\)](#), and as may be amended from time to time. 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](#).
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 Contract.
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, and as may be amended from time to time.

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

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

Authority - The Contractor is hereby informed that City inspectors are not authorized to alter, revoke, enlarge, or relax the provisions of these specifications. They are not authorized to approve or accept any

portion of the completed work, or instructions contrary to the specifications. An inspector is placed on the project (or sent to the location of materials) to inspect materials being used in the work and to observe the manner in which the work is being performed and to report the progress of the work to the City. The inspector shall have the authority to reject defective materials or suspend any work that is being improperly done subject to the final decision of the City.

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

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

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

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

SECTION XVI **SCRUTINIZED COMPANIES**

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

SECTION XVII
CONTRACT ADMINISTRATION

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

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

Joint Venture - Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, or other association of any kind or agent and principal relationship, between the vested parties. Each party shall be deemed to be an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon Contract. Neither Contractor nor any of Contractor's agents, employees, subcontractors, or contractors shall become or be deemed to become agents or employees of the City. Contractor shall therefore be responsible for compliance with all laws, rules, and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health, and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

Notices - Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein shall be given in writing as required in Section II. Each such notice shall be deemed to have been provided:

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

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

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

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

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

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

SECTION XVIII **ADDITIONAL REQUIREMENTS**

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

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

Contractual Relations - The Contractor is advised that nothing contained in the Contract or specifications shall create any contractual relations between the City and any subcontractors of the Contractor.

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

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

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

Cleaning Up – The Contractor shall, during the performance of this Contract, remove and properly dispose of resulting dirt and debris, and keep the work area reasonably clear. Contractor shall remove equipment,

materials, excess debris, and put the work area in a neat, clean, sanitary, and safe condition by the end of each shift. All disturbed areas shall be restored to existing or better conditions. The Contractor shall only be entitled for payment of authorized areas within the project work limits. Contractor shall make every effort to minimize unnecessary damage. All damaged areas outside the project work limits must be repaired to existing conditions or better, at the cost of the Contractor, prior to payment of invoices. Contractor shall also take care to avoid sprinkler heads and irrigation lines, unless the aforementioned cannot be avoided, in which case irrigation lines will be relocated to cover all grassed areas. This cost is incidental to the clearing and grubbing cost.

SECTION XIX **ASSIGNMENT**

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

SECTION XX **TERMINATION, DELAYS, AND LIQUIDATED DAMAGES**

Default Event - The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Contract:

- I. The Contractor fails to deliver or has delivered nonconforming services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- II. The Contractor fails to make substantial and timely progress toward performance of the Contract;
- III. In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- IV. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- V. The Contractor has failed to comply with applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing within the scope of the Contract;
- VI. If the City determines that the actions, or failure to act, of the Contractor, its agents, employees, or subcontractors have caused, or reasonably could cause, life, health, or safety to be jeopardized;
- VII. The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VIII. The Contractor furnished any statement, representation, or certification in connection with the Contract, which is materially false, deceptive, incorrect, or incomplete.

Notice of Default/Termination for Cause - If there is a Default Event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- I. Immediately terminate the Contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the Contract and seek any legal or reasonable remedies; and/or
- III. Procure substitute services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor. Such a charge, in the City's option, may be invoiced to the Contractor and/or may be deducted from payments due to the Contractor. Deductions thus made will not excuse the Contractor from other penalties and conditions contained in the Contract.

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 Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the Contract to the City up to the time of termination, pursuant to Florida law.

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.

Liquidated Damages for Delays - If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, (it being impossible to determine the actual damages occasioned by the delay) the Contractor shall provide to the City one hundred (\$100.00) dollars as fixed, agreed, and liquidated damages for each calendar day of delay until the work is completed. The Contractor and their sureties shall be jointly and severally liable to the City for the total amount thereof.

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, arising from this Contract, or related to this Contract, shall be in St. Lucie County, Florida.

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

SECTION XXII
APPROPRIATION APPROVAL

The Contractor acknowledges that the City of Port St Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

SECTION XXIII
CONFLICT OF INTEREST

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

SECTION XXIV
PROHIBITION AGAINST CONTINGENT FEES

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

SECTION XXV
ATTORNEY'S FEES

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

SECTION XXVI
CODE OF ETHICS

Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in [Chapter 112.311 et seq.](#), Florida Statutes, and as may be amended from time to time, 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 XXVII
POLICY OF NON-DISCRIMINATION

Contractor shall not discriminate against any person in its operations, activities, or delivery of services under this Contract. Contractor shall affirmatively comply with all applicable provisions of federal, state, and local equal employment laws and shall not engage in or commit any discriminatory practice against any person

based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION XXVIII **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 XXIX **AUDITS**

The Contractor shall establish and maintain a reasonable accounting system that enables the City to readily identify the Contractor'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 are not limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful contractors, 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 Contractor 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 Contractor, including, but not limited to, those kept by the Contractor, its employees, agents, assigns, successors, and subcontractors. Such records shall be made available to the City during normal business hours at the Contractor's office or place of business. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Contractor 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 Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of the City's findings to the Contractor. Evidence of criminal conduct will be turned over to the proper authorities.

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

SECTION XXX
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 Contractor, attached hereto), the E-Bid (including any subsequent addenda and written responses to Contractors' questions), and the Contractor'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 Contractor's Response, except that objections or amendments by a contractor 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 XXXI
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 XXXII
ENTIRE AGREEMENT

This Contract sets forth the entire agreement between Contractor and City with respect to the subject matter of this Contract. This Contract supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the parties. The parties shall not rely on any representation that may have been made by either party which is not included in this Contract. This Contract may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

(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

CONTRACTOR

By: _____
Purchasing Agent

By: WRL
Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA)
) ss
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by [] physical presence or [] online notarization, this 17th day of JULY, 2023, by WILLIAM R. MOTTA who is [] personally known to me, or who has [] produced the following identification:
FLORIDA DRIVER LICENSE



Lucia DeLeon
Signature of Notary Public

LUCIA DELEON

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