

**CITY OF PORT ST. LUCIE  
#20230045**

This Contract, executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City", and TETRA TECH, INC., 2301 Lucien Way, Suite 120, Maitland, FL 32751, Telephone: 321-441-8500, Fax: 321-441-8501, hereinafter called "Contractor" or "Proposer." The 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 Debris Monitoring Services based on the terms and subject to the conditions contained herein; and

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

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

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

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

**SECTION II  
NOTICES**

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

Contractor: Jonathon Burgiel, Business Unit President  
Tetra Tech (**PRIMARY**)  
2301 Lucien Way, Suite 120  
Maitland, FL 32751  
Telephone: 321-441-8500  
Fax: 321-441-8501  
Email: [TDR.contracts@tetrattech.com](mailto:TDR.contracts@tetrattech.com)

City Contract Administrator: Nate Rubel  
Procurement Assistant Director – Office of Management & Budget  
121 SW Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099  
772-344-4230  
E-mail: [nrubel@cityofpsl.com](mailto:nrubel@cityofpsl.com)

City Project Manager: Mariana Feldpausch, Project Manager  
City of Port St. Lucie –Office of Solid Waste  
121 S.W. Port St. Lucie Blvd  
Port St. Lucie, FL 34984  
Telephone: 772-871-5258  
Email: [mfeldpausch@cityofpls.com](mailto:mfeldpausch@cityofpls.com)

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

This specific work that the Contractor has agreed to perform pursuant to the Bid Specifications #20230045, **Debris Monitoring Services** including all Attachments, all Addenda, and all other restrictions and requirements are incorporated by this reference.

#### **EMERGENCY MONITORING REQUIREMENTS**

**1.1 Subcontract** - The City may, at its discretion, limit the number of subcontractors working under the prime or sub-prime contractor at its sole discretion to ensure safety and quality of work provided.

#### **1.2 Electronic Load Tickets and Automated Debris Management System (ADMS)**

The City is requiring the use of electronic load tickets and ADMS from its monitoring contractors. The debris management system shall provide real-time tracking and reporting. Electronic load tickets, computer tablets, and systems employing electronic contractor ID cards for instant data tracking, verification, and reporting. Systems shall incorporate truck tracking systems, GPS capability, and enhanced analytical capabilities of debris monitoring data.

**1.3 Monitoring Services** - Monitoring shall be done in compliance with the guidelines as described in the most current FEMA 325, 327, and FEMA 329 publications. Those monitoring efforts shall include, but are not limited to:

- 1.3.1 Providing assistance in updating the City's Debris Management Plan.
- 1.3.2 Provide annual training prior to the hurricane season of selected City staff in essential debris management, monitoring, and collection functions to insure appropriate and responsive interface with field debris collection Contractors and City, State, and Federal agencies.

- 1.3.3 Provide field inspectors at designated check points to check and verify information on debris removal and at Temporary Debris Management Sites located or developed throughout St. Lucie County or the region if necessary as approved by the City.
- 1.3.4 Provide technical and permitting assistance associated with the need to locate additional Temporary Debris Management Sites when requested by the City.
- 1.3.5 Provide assistance with scheduling, dispatching and logistical operations of the field inspectors assigned to work areas of storm debris clean up. This work will include:
  - 1.3.5.1 Acquiring, hiring, training, deploying, and supervising properly equipped inspectors.
  - 1.3.5.2 Ensuring recycling of substitute refrigerants according to EPA regulations is followed.
  - 1.3.5.3 Establishing the schedule for inspectors for each day.
  - 1.3.5.4 Monitoring and recording the volumetric measurement (cubic yards) or gross empty weight of each truck that is added into service.
  - 1.3.5.5 Ensuring that all equipment is certified in accordance with most current City procedures. After a disaster, the City and the selected Proposer will begin equipment certification at a pre-designated site, or at the debris management site(s).
  - 1.3.5.6 All Contractor and subcontractor trucks shall have valid registrations, insurance, and meet basic operational criteria: tailgates or equivalent containment devices, tarps, etc., as well as all applicable motor vehicle safety requirements. Drivers shall possess valid Commercial driver's licenses (CDL).
  - 1.3.5.7 Truck body dimensions shall be measured, and information recorded on certification forms with calculated capacity noted. Each truck will receive at least one identifying marker, which shall be affixed to the side of the truck/trailer body. The identifying marker will be legible for monitors at the pickup location and the debris monitoring site. The truck driver may be provided up to two (2) copies of the certification sheet for the debris Contractor and subcontractor's records.
  - 1.3.5.8 Keeping records of contract hauler's trucks, to include cubic yardage, or loaded weight, time in and time out, number of loads per day and other data as requested by designated City staff.

- 1.3.5.9 Determining truck assignments and providing the necessary vehicle identifying markers for ease of identification and tracking.
- 1.3.5.10 Coordinating with City personnel to respond to problems in the field, to include residential or commercial property damage claims in the process of debris removal. Selected Proposer shall establish a telephone claim reporting system with a local or toll free telephone number and provide staff for the professional management of receiving telephone complaints or damage claims. The selected Proposer shall investigate and assist in documentation of property damage claims.
- 1.3.5.11 Conducting end of day duties, such as verifying all trucks have left the disposal site, addressing daily safety reports and corrective action recommendations, and locking down the facility.
- 1.3.5.12 Surveying the affected areas for special situations or emergent needs, including but not limited to, identifying tree stumps and the management of root balls and associated cavities, hazardous trees, construction and demolition debris, or other potentially hazardous situations. The selected Proposer must keep a list of these locations, track and coordinate the appropriate dispatch of equipment and make daily reports to the City on any post event remedial action.
- 1.3.5.13 Record on a map the streets where debris was collected.
- 1.3.5.14 Perform other duties as directed by the designated City personnel including, but not limited to:
  - 1.3.5.14.1 Collect baseline data, per local, State, and Federal requirements, from the designated emergency debris management sites prior to opening of these sites.
  - 1.3.5.14.2 Assist the City in obtaining necessary local, State, and Federal permits for the designated emergency debris management sites.
  - 1.3.5.14.3 Conduct ongoing environmental data collection per local, State, and Federal requirements for the designated emergency debris management sites.
  - 1.3.5.14.4 Employ or maintain on the work site(s) a qualified accessible supervisor(s) or liaison officer as directed. At least one (1) accessible and designated supervisor in the area of operation and the liaison officer shall have full authority to act on behalf of the selected Contractor and its subcontractors and all communications given to the supervisor or liaison officer in writing by the City's authorized representative shall be as binding as if given to the selected Contractor.

- 1.3.5.14.5 Review and validate debris removal contractor(s) invoices prior to submission to the City for processing.
- 1.3.5.14.6 Identify locations available to them for monitoring activities, in the event the City cannot provide facilities for a management center.
- 1.3.5.14.7 Maintain and update a log of damages reported, damage corrections, and releases for work by either the property owner or the City.
- 1.3.5.14.8 Maintain and update a log of the tickets inventoried, issued and/or voided.
- 1.3.5.14.9 Maintain and update tower logs of ticket information.
- 1.3.5.14.10 Maintain and update maps or other materials issued by the City, marking work complete with date and daily log of activities.
- 1.3.5.14.11 Maintain and update a log of ineligible debris piles.
- 1.3.5.14.12 Assist in developing progress reports for the City's media venues for the purpose of providing information to the community on the status and progress of the City's debris collection operations.

1.3.6 Coordinate all accounting issues in regards to invoicing and billing with the City's Finance Department.

1.4 **Communications and Customer Service Coordination** - The Contractor will work with the City's Public Information Officer to keep residents apprised of emergency debris clean up efforts.

#### **4. ADMINISTRATIVE SERVICES RELATED TO ELIGIBLE REIMBURSEMENT COSTS**

4.1 The Contractor shall provide technical, clerical, and information technology assistance to the City in completing any and all forms necessary for reimbursement from State or Federal agencies. This may include, but is not limited to, the timely completion and submittal of reimbursement requests, preparation and submittal of any and all necessary cost substantiations and preparing replies to any and all agency requests, inquiries or potential denials.

In addition, the Contractor shall:

- 4.1.1 Be capable of differentiating and segregating disaster related costs eligible for reimbursement between the FEMA Public Assistance (PA) Program, the Federal Highway Administration Emergency Relief (ER) Program, the Natural Resource Conservation Service Emergency Watershed Program, and / or any other applicable State or Federal programs in which the City may qualify for reimbursement.

- 4.1.2 Be capable of differentiating and segregating disaster related costs eligible for reimbursement into the appropriate category of work (e.g., Category A, B, C, etc.) for each applicable State or Federal reimbursement program.
- 4.1.3 Be capable of differentiating and segregating structures and facilities between eligible and not eligible for reimbursement based on legal responsibility of City as outlined in City ordinances, contracts, and bid specifications. Assist City in accurately identifying location of damages on or to facilities or structures using latitude, longitude, GPS coordinates, or other approved system of identification as may be required under the various State or Federal reimbursement programs.
- 4.1.4 Reconcile daily activity reports to summary of daily activity reports to ensure all daily activity reports have been provided and accounted for. Sort all daily activity reports as either eligible or ineligible duties performed. Assist in developing reimbursement requests for force account labor costs where only eligible work is identified on the daily activity reports.
- 4.1.5 Utilize standardized documentation content checklists by category of work (e.g., Category A, B, C, etc.) to list and itemize standard documents required to demonstrate eligibility for reimbursement under each category of work, as well as to itemize documents specific to each reimbursement request file. Checklists shall allow for inclusion of document name, identifying characteristics of the document (e.g., invoice number, invoice date), cost associated with each document, the date the document has been added as well as the name of the individual verifying the documentation has been added to the reimbursement request file.
- 4.1.6 Assist City in developing the justification for eligible requests for hazard mitigation funding, where appropriate. Delineate eligible costs between like-kind repairs and replacements and upgrade costs resulting from hazard mitigation where construction codes, standards, specifications or ordinances may not require the increased project scope and resulting upgrade costs.
- 4.1.7 Assist City in developing eligible requests for reimbursement for repair or replacement of City owned property or structures in accordance with applicable construction codes, standards, specifications, and ordinances. Assist in identifying and obtaining pertinent construction codes, standards, specifications, and ordinances to be included in the reimbursement request file.
- 4.1.8 Reconcile list of documents in each eligible reimbursement request file on documentation content checklist to the physical documents in each file and to the cost total for each reimbursement request file to ensure amount of requested reimbursement matches supporting documentation. Reconciliation of each reimbursement request must be performed prior to turnover of the file to the representative(s) of the appropriate State or Federal reimbursement program.
- 4.1.9 Create and maintain a cost summary list for all reimbursement request files under each applicable State or Federal reimbursement program. List should contain

information including, but not limited to, total City expenditures per project, eligible reimbursement cost request, eligible administrative cost reimbursement request, and total eligible project / reimbursement request.

- 4.1.10 Perform reconciliation of changes in supporting details or cost amounts for each reimbursement request file identified on the cost summary list as circumstances require.
- 4.1.11 Scan and upload digital copies of all disaster related records to City designated document repository. Ensure all digital files are able to be opened and not corrupted after uploading. Perform reconciliation of paper records in each paper reimbursement request file to upload digital records on document repository to ensure completeness and accuracy of both digital and paper files.
- 4.1.12 Assist City in developing, compiling, and indexing photographic evidence of damages or repairs to facilities or structures and help choreograph the need to make said repairs or perform emergency protective measures before, during, and after the declared disaster, as may be required.
- 4.1.13 Be cognizant of instructions on any State or Federal reimbursement request forms that require information to be input in a format inconsistent with the overarching policies of the State or Federal reimbursement program. Obtain written direction from appropriate State or Federal representative(s) on how to complete the forms in a manner that is consistent with overarching program policies before proceeding.
- 4.1.14 Assist City in compiling direct and indirect administrative costs (Category Z) for all City personnel involved in the reimbursement request process. Ensure all eligible administrative costs up to and including closeout are captured and appropriately documented in each request for reimbursement.
- 4.1.15 Be responsive and address issues requested to be resolved by authorized City personnel without prompting continuous follow-up. Maintain a checklist of outstanding issues and provide periodic status updates to appropriate City personnel.

4.2 The Contractor shall provide optional hourly all-inclusive rates for clerical or administrative staff eligible for reimbursement to make copies and perform clerical duties and related functions to maximize the productive output of the Project Manager / Liaison Officer.

## **5. STAFFING REQUIREMENTS - CONTRACTOR**

**5.1 Personnel** - The Contractor shall secure at their own expense, and hire all necessary personnel required to perform the services under the Contract. Such personnel shall not be employees of or have any contractual relationship with the City. Staff shall be familiar with the locations of the City's roadways, bridges, and stormwater infrastructure.

The Contractor shall provide information on how they intend to supply housing for all necessary personnel.

The Contractor shall be requested to assist in other debris recovery planning efforts, such as identifying adequate Debris Management sites, estimating debris quantities, and developing emergency plans for debris clearance following an emergency event.

The Contractor must be familiar with and have personnel trained in the Incident Command System (ICS) and the National Incident Management System (NIMS). This requirement is in keeping with Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents.

The Contractor shall attend required meetings at no expense to the City, for pre-event planning.

The following describes the Contractor's responsibility of providing staffing for all natural and un-natural disasters, with up to but not limited to eight (8) Debris Management sites. Each collection site will be in operation from dawn to dusk, seven (7) days per week, unless directed differently.

- 5.1.1 **Damage Assessment Team:** After the all clear has been issued, a Contractor shall provide a Damage Assessment Team out in the field, or via air, to bring forth a City wide assessment of damages working directly with the City's damage assessment team so that expenses, timeliness and approaches can be planned.
- 5.1.2 **Project Manager/Liaison Officer:** The Contractor shall appoint a Project Manager, fluent in English, who will be the City's primary point-of-contact and will be responsible for all services and personnel that are provided by the Contractor. The Contractor's Project Manager shall manage and supervise the debris monitoring services provided by the Contractor and serve as liaison between the City Debris Manager and the Contractor. The Contractor's Project Manager shall attend all meetings and briefings designated by the City.
- 5.1.3 **Lead Monitors:** Set-up and man the Staging Area Command and Coordination Center. Train the Site and Field Monitors and track their performance. Assign Field Monitors to contract haulers. Assign Field Monitors and contract haulers to collection grids. Track the daily collection on a City wide grid map. Coordinate the daily collection operation with the contract haulers site superintendent. Track the daily count of Field Monitors necessary to meet the contract haulers demands. Track the daily count of contract haulers trucks, trailers, and loading equipment. Provide daily collection status reports to the Project Coordinator on request. Fill in as Site Monitor if needed. Record and inspect any property damage that may occur during the debris removal operation.
- 5.1.4 **Site Monitors:** Trained to evaluate and certify that each load of debris represents the actual size of the load by percentage of total rated capacity. Two (2) trained inspectors shall rate each load before it can be off-loaded at the debris management site. One (1) inspector is representing the City, the other is representing the selected Proposer. Both Site Monitors must agree on the percentage of load and sign off on the load ticket for the cubic yard quantity.



- 5.1.5 **Field Monitors:** Trained to follow each contract hauler, as debris is collected through-out the City. The Monitor must witness and certify through their ADMS that the hauler collected storm debris from public roadways only. The Monitor must certify that the debris piles are not mixed (vegetation or construction & demolition debris) before loading. The Monitor is assigned to hauler(s) and given a certain grid in the City to collect either vegetation or construction & demolition debris. The Monitor must assure that all targeted debris is removed by the contract hauler during each pass before the contract hauler may move to a new area. The Monitor must record the time, location, and sign the contract haulers load ticket before the load can be delivered to the collection site for processing. The Monitor is responsible for reporting any unsafe or unauthorized collection practices to the Site Monitors.
  
- 5.1.6 **Supervising Monitors:** The functions of the Supervising Monitors shall be the following:
  - 5.1.6.1 Verify that only eligible debris is being removed from designated public rights-of-way and public property within assigned debris pickup zones.
  - 5.1.6.2 Verify adequate photographic documentation of hazardous trees.
  - 5.1.6.3 Coordinate activities between monitors.
  - 5.1.6.4 Provide breaks to monitors.
  - 5.1.6.5 Coordinate, research, and make recommendations on damage claims to the City Debris Manager.
  - 5.1.6.6 Maintain positive public relations in regard to individual complaints.
  - 5.1.6.7 Compile and complete necessary reports.
  - 5.1.6.8 Investigate and resolve complaints of residents within the limits of the Contract.
  - 5.1.6.9 Coordinate daily with the Debris Management Unit Leader and the debris hauler.
  - 5.1.6.10 Coordinate daily operations of monitors.
  
- 5.1.7 **Loading Site Monitors:** The primary functions of the Loading Site Monitors are to complete and issue debris load tickets for eligible debris cleared and removed at locations designated by the EOC, and to verify that only eligible debris is being removed from designated eligible sites within assigned debris pickup zones in Port St. Lucie.
  
- 5.1.8 **Management Site Monitors:** The primary function of the Management Site Monitors is to complete the load ticket and estimate volumes that have been

transported to the debris management site for processing, storage, and disposal. Management Site Monitors shall also verify that all trucks leaving the Management Site have completely emptied all debris from the trucks.

5.1.9 **Roving Monitors:** The function of the Roving Monitors is to verify that only eligible debris is being removed from eligible property within assigned debris pickup zones in Port St. Lucie. The Roving Monitors shall also photographically document hazardous trees (leaners and hangers).

5.1.10 **Debris Management Contractor:** The Contractor shall provide, if requested by the City, the services of an experienced professional contractor to assist the City in the operations and coordination of activities at the EOC. The qualified individual must have direct debris monitoring experience including the management of debris removal operations, the oversight of Debris Management sites, debris recycling, and disposal. Emphasis on management and coordination of post debris causing event recovery and FEMA reimbursement guidelines are required.

The Contractor shall report to the City Debris Management Unit Leader. The Contractor shall perform work as assigned which may include, but is not limited to, review of plans and procedures; drafting task orders, work plans and reports; audit of Debris Removal efforts and operations; develop information for public dissemination on debris removal; reduction and disposal; and other duties as assigned.

The City Debris Management Unit Leader will activate this Contract to mobilize the Contractor. The Contractor will be available to report in person, to the Debris Management Unit Leader for a minimum of two (2) weeks following mobilization. The City Debris Management Unit Leader shall establish the service requirements and length of time those services are needed based on needs of the City.

5.1.11 **Call Center/Public Information Monitors:** The City operates an Emergency Call Center during EOC activation, the Contractor may be called upon to complete the following:

- The Contractor's staff shall handle telephone hotline inquiries on a 24/7 basis until the final debris pass has been completed and all issues requiring the continued operation of the debris hotline have been addressed to the satisfaction of the City. A daily report, and a weekly summary, will be given to the City Debris Management Unit Leader at a daily morning meeting of all key personnel. Staff shall include a minimum of two (2) people that will remain to manage and complete reports for at least six (6) months after the event.
- The Contractor's staff shall handle telephone and electronic inquiries on a 24/7 basis until the final debris pass has been completed and all issues have been addressed to the satisfaction of the City. A daily report, and a weekly summary, will be given to the City Debris Management Unit Leader

at a daily meeting of all key personnel. The Contractor shall provide first class customer service using telephones, email and internet, and social media to effectively manage public information needs.

**5.2 Employment Requirements** - All Supervising Monitors, Loading Site Monitors, Management Site Monitors, and Roving Monitors must speak English, be a minimum of eighteen (18) years of age, have a valid driver's license issued in the United States, and be prepared to work a minimum of a twelve to fourteen (12-14) hour shifts, seven (7) days per week. The following is a list of qualifications:

- 5.2.1 Must have experience in at least one of the following:
  - Entry level Contractor
  - Solid waste site operations
  - Construction Inspector
  - Land clearing operations
  - Entry level surveyor
  - Solid waste collections
  - Previous similar monitoring or inspection experience
- 5.2.2 Must be capable of working in an outside, frequently harsh, environment and be able to climb a staircase ladder of ten (10) feet high.
- 5.2.3 Must attend a one-half (1/2) day debris monitor training session to be conducted at a location specified by the City Debris Management Unit Leader before the start of the first shift. Training will be the responsibility of the selected Proposer and must be approved by the City.
- 5.2.4 When on a loading site or a temporary emergency debris management site, all personnel must wear required safety equipment as necessary to comply with all OSHA, Federal, State, and local requirements. The following are mandatory:
  - Hard hat
  - Reflective vest
  - Safety toed shoes
  - Long pants
  - Appropriate cold, hot, or rainy weather clothing
  - Eye and hearing protection

## 6. STAFFING REQUIREMENTS - CITY

6.1 **Damage Assessment Team** - The City will provide the initial damage assessment to identify necessary lifesaving actions, and assess the magnitude of damage. The team shall investigate the damaged areas by sector to record the extent of damage and to identify specific assistance requirements. The team shall estimate the amount and composition of debris observed in each sector and annotates the locations on community maps.

6.2 The City will provide a **Debris Management Unit Leader** to act as liaison between City staff, FEMA, and selected Proposer. This person will oversee the City's interest in the entire storm debris removal operation, and assure FEMA and Contract compliance.

6.3 The City will also provide a **Safety Officer** to ensure the Contract is being adhered to and all safety issued are being addressed.

6.4 **Unsuitable Personnel** – The City reserves the right to immediately remove any personnel with or without cause that are deemed unsuitable for the City's recovery effort. Personnel subject to removal under this clause are:

- City staff full time, part-time, or temporary
- Primary firm staff and or sub-contractor staff

## 7. SPECIFIC REQUIREMENTS

7.1 **Mobilization** - The Project Manager and other key personnel shall report to the City Debris Management Unit Leader within twelve (12) hours of notification by the City. Commencement of work shall begin within twenty-four (24) hours of issuance of Notice to Proceed. The City may issue Notice to Proceed twenty-four (24) to forty-eight (48) hours prior to a storm event depending upon the magnitude of the event in order to allow sufficient time to prepare for commencement of operations.

The Contractor shall provide an adequate number of professionals and qualified personnel to monitor the debris loading sites and debris management sites. The Contractor shall also provide Roving Monitors as needed and dictated by demands of the emergency event. The Contractor shall be required to increase its staffing from this point depending upon the severity of the debris generating event. At a minimum, the Contractor shall be required to have the ability to provide one additional monitor per day if required to meet the needs of the debris haulers.

7.2 **Telephone Contact List** - The Contractor shall maintain a telephone contact list and email list at each loading site and debris management site of the employees' supervisor, City Debris Management Unit Leader, EOC and nearest fire, police, and emergency medical facilities.

7.3 **Labor and Equipment** - The Contractor shall supervise and direct all work using qualified labor and proper equipment for all tasks. Safety of the Contractor's personnel and equipment is the responsibility of the Contractor. Additionally, the Contractor shall pay for all materials, personnel, taxes, and fees necessary to perform work under the terms of the Contract.

7.4 **Permits** - The Contractor shall be responsible for determining what permits shall be necessary to perform work under the proposed Contract. Copies of all permits shall be submitted to the Debris Management Unit Leader prior to commencement of work.

7.5 **Violations** - During the performance of the Contract, the Contractor shall be responsible for correcting any notices of violations issued as a result of actions or operations of the Contractor or its subcontractors. Corrections for any such violations shall be at no additional cost to the City.

7.6 **Costs Associated with Violations** - The Contractor shall be responsible for paying any and all costs associated with violations of laws or regulations relative to the activities of the Contractor or its subcontractors. Such costs might include but are not limited to: site cleanup and remediation, fines, administrative and civil penalties, and third party claims imposed on the City by any regulatory agency or by any third party as a result of noncompliance with Federal, State, or local environmental laws and regulations or nuisance statutes by Contractor, its subcontractors, or any other persons, corporations or legal entities retained by the Contractor.

7.7 **Meetings** - The Contractor must attend all meetings required by City Debris Management Unit Leader to evaluate the performance of all monitors or to discuss any open Contract issues.

7.8 **Work Authorization** - No work will be performed without a written work authorization (or work order) from the City.

7.9 **Ceiling Price** - A ceiling price will be established at the time of the work authorization (or work order). The City and the Contractor will carefully monitor costs to ensure he/she stays under the ceiling OR amended prior to exceeding the ceiling. The Contractor exceeds the ceiling at its own risk without an agreed-to-amendment.

#### **SECTION IV** **TIME OF PERFORMANCE**

The Contract Period start date will be \_\_\_\_\_ and will terminate three (3) years thereafter on \_\_\_\_\_. The Contractor will be required to commence work under this Contract by contacting the Debris Management Unit Leader during the planning stages and pre-storm event to anticipate your plan and needs before the storm is over. Once the "all clear" is given, the selected firm will go out, assess, and begin the clean-up process. The Contractor shall mobilize personnel and shall be fully mobilized once emergency response organizations allow their personnel back on the roads and not later than twenty-four (24) hours after Tropical Storm Force Winds (TSFW) have subsided. 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 services required in this contract for one (1) additional, two (2) year term 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 the additional two (2) year term.

**SECTION VI  
COMPENSATION**

The total amount to be paid by the City to the Contractor will be in accordance with actual hours service is performed at the following rates as described below.

Item #	Description	Hourly Rate
1	Project Manager/ Liaison Officer (1)	\$50.00
2	Lead Monitors (2)	N/A
3	Site Monitors (2)	N/A
4	Field Monitors (14)	\$38.50
5	Supervising Monitor	\$48.00
6	Loading Site Monitors (30)	\$38.50
7	Clerical/Administrative Supervisor (1)	\$45.00
8	Clerical Staff/Data Entry Clerk (1-3)	N/A
9	Management Site Monitor	\$35.00
10	Roving Monitor	\$35.00
11	Debris Management Contractor	\$110.00
12	Public Information Monitors	\$34.00
13	Administrative Staff	\$34.00
14	Aerial Photo Package (one flight and one photograph)	\$0.00
15	Photograph Copies (per duplication of original photo)	\$0.00
16	Additional Photographs (per photo, same flight, same location, different view)	\$0.00
17	Additional Location (one photo, same flight, different location)	\$0.00

Rates for Additional Services:

<b>Grant Management Consulting Services</b>	
Category	Hourly Rate
Subject Matter Expert	\$245.00
Senior FEMA Reimbursement Specialist	\$145.00
Project Manager	\$175.00
Senior Grants Management Consultant	\$185.00
Project Grants Management Consultant	\$145.00
Grants Management Consultant	\$125.00
FEMA Reimbursement Specialist	\$125.00
Grants Administrator	\$115.00
Senior Consultant / Planner / Engineer	\$185.00

Project Consultant / Planner / Engineer	\$165.00
Consultant / Planner / Engineer	\$125.00
Floodplain Management Specialist	\$165.00
Benefit Cost Analysis Specialist	\$165.00
Grants Data Specialist	\$105.00
Senior Engineering Technician	\$115.00
Engineering Technician	\$105.00
Senior Field Technician	\$95.00
Field Technician	\$85.00
Administrative Specialist	\$65.00

<b>Emergency Management Planning</b>	
<u>Category</u>	<u>Hourly Rate</u>
Project Manager	\$170.00
Planner IV	\$160.00
Planner III	\$145.00
Planner II	\$120.00
Planner I	\$105.00

All reimbursable expenses are to be included in the hourly rate.

Billable hours shall be for time during which work is performed and shall not include travel time to or from the City. Travel time between locations within the City as billable time is acceptable. The Contractor shall not be paid additional compensation for any loss, and/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 prosecution of the work, or for any expenses incurred by or in consequence of the suspension or discontinuance of the work.

**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. Payments shall be made within twenty (20) business days of receipt of Contractor's valid invoice, provided that the invoice is accompanied by adequate supporting documentation, including any necessary partial release of liens as described above, and is approved by the Project Manager as required under Section XV of the Contract.

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

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

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

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 thirty (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.

## **PAYMENT**

**Labor Rates** - All labor rates are to be fully burdened to include all taxes, benefits, handling charges, equipment, mileage, rentals, per diem, housing, reproduction, clerical/administrative tasks, record keeping tasks, reporting tasks, quality control, overhead, profits and any other expenses necessary to the execution of a Contract to be developed as a result of this bid.

**Payment Schedule** - Invoices will be processed for payment only after approval by the Debris Management Unit Leader. Approval for payment shall not be granted until appropriate deliverables are received and determined to be correct, accurate, and consistent by the Debris Management Unit Leader.

**Project Completion** - The project will be considered completed when the Debris Management Unit Leader accepts all work specified under the Contract has been completed to his/her satisfaction and all eligible debris as defined in Section 4, has been picked up within the jurisdictions of the City, and all damage and issues relating to the disaster recovery have been resolved, and any Temporary Debris Management sites have been restored to their original condition or at the sole discretion of the Debris Management Unit Leader to meet the needs of the City. Site close-up, demobilization, monitoring of any property damage resolution are all duties of the Contractor's Project Manager.

## **DELIVERABLES**

All load tickets, forms, reports and other deliverables shall be accurately and correctly submitted. The Contractor shall not bill additional time, and shall not be paid additional time, for time spent by any personnel to correct a load ticket, form, report, or other deliverables.

At a minimum, the following deliverables must be provided to the City at the completion of the Contract. However, deliverables shall be in no way limited to the following list. At its sole discretion, the City may add and/or delete deliverables to meet the needs of the City.



- 1) Electronic storage of all load tickets and ticket logs in an organized manner.
- 2) Daily tower logs.
- 3) List of all personnel with signatures and initials.
- 4) Electronic or Hard Copy (if requested) Binder(s) with damage reports, completed repairs, and releases (if applicable).
- 5) Electronic or Hard Copy (if requested) Binder(s) with issues and final resolution.
- 6) Report by pass with daily logs.
- 7) Digital List of tickets issued to collection contractors, by monitor, and list of lost and or voided tickets.
- 8) Digital Daily Report -- The Contractor shall prepare and submit daily operational reports.
- 9) Throughout the duration of the recovery operations. Digital daily reports shall document the Debris Contractor's activities and progress from the previous day and shall be submitted by 10:30 AM to the City's Debris Management Unit Leader. Each daily report shall contain the following minimum information:
  - i. Correctly and accurately completed load tickets consistent with all reporting documents
  - ii. The times of operation of all debris loading trucks
  - iii. Reports, maps and graphs to delineate production rates of crews and their equipment,
  - iv. progress by area and estimations of total quantities remaining, time to completion, and  
daily cumulative cubic yards of debris removed, processed and hauled
- 10) Final Digital Reconciliation - A final report will be prepared by the selected Proposer and submitted to the City Debris Management Unit Leader within thirty (30) calendar days of completion of recovery operations. Recovery operations include closure and remediation of Debris Management sites and conclusions of all related operations. At a minimum this report will include: a discussion of disaster response requirements and results and recommendations for future disaster response.

## **SECTION VII** **WORK CHANGES**

The City reserves the right to order work changes in the nature of additions, deletions, or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the Contract price and time for completion. Any and all changes must be authorized by a written change order signed by the City's Purchasing Agent or his designee as representing the City. Work shall be changed and the Contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the Contract price resulting in a credit or a charge to the City shall be determined by mutual agreement of the

parties before starting the work involved in the change. Any dispute concerning work changes which is not resolved by mutual agreement shall be decided by the City Manager who shall reduce the decision to writing. The decision of the City 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 agreement by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors, or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations, or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Contract.

**SECTION X**  
**SOVEREIGN IMMUNITY**

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

**SECTION XI**  
**INSURANCE**

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage 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, 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.

1. Workers' Compensation Insurance & Employer's Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis. Should scope of work performed by the Contractor qualify its employee(s) 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.
2. Commercial General Liability Insurance: The Contractor shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

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

3. Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability 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 and Business Auto Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read: "**City of Port St.**

**Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and shall include Contract #20230045 – Debris Monitoring Services."**

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.

4. 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.
5. Waiver of Subrogation: By entering into this Contract, the 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.
6. Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City 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 contractor and/or subcontractors comply with the same insurance requirements referenced herein. It shall 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 the Contractor, any independent contractors, and/or any subcontractors maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the 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.

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

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

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any 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 his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of [28 C.F.R. § 35.151](#). Contractors and any subcontractors shall comply with [section 119.0701, Florida Statutes](#). The Contractor and any subcontractors 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\(a\), Florida Constitution](#) and section 119.07(1)(a), Florida Statutes (2013). Pursuant to [section 119.10\(2\)\(a\), Florida Statutes](#), any person who willfully and knowingly violates any of the provisions of chapter

119, Florida Statutes, commits a misdemeanor of the first degree, punishable as provided in [sections 775.082](#) and [775.083, Florida Statutes](#).

## 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, Florida Statutes,

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.

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](mailto:pr@cityofpsl.com)**

Pursuant to Title VI of the Civil Rights Act of 1964 and other related federal and state laws and regulations, the City of Port St. Lucie will not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status per Resolution 14-R162 adopted by City Council on November 10, 2014.

Title VI

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest agrees as follows:

- (1.) Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations}, which are herein incorporated by reference and made a part of this Contract.
- (2.) Nondiscrimination: The Contractor, with regard to the work performed during the Contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- (3.) Solicitations for Subcontractors, including Procurements of Materials and Equipment: In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to

nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

- (4.) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* as appropriate and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to:
- a. withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
  - b. cancellation, termination or suspension of the Contract, in whole or in part.
- (6.) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (7.) **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid



Highway Act of 1973, (23 U.S.C. §324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; the Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**SECTION XV**  
**INSPECTION AND CORRECTION OF DEFECTS**

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

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

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

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

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

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

## **SECTION XVI** **SCRUTINIZED COMPANIES**

By entering into this Contract with the City, Contractor certifies that it and those related entities of Contractor, as defined by Florida law, are not on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, and are not engaged in a boycott of Israel. The City may terminate this Contract if Contractor or any of those related entities of Contractor, as defined by Florida law, are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott

of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the City reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the City determine that the conditions set forth in section 287.135(4), Florida Statutes, are met.

## **SECTION 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 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 1<sup>st</sup> through September 30<sup>th</sup>.

**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.

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

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

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

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

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

**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 himself 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 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 his surety shall indemnify and hold harmless the City from any and all claims for infringement in connection with the work agreed to be performed. The Contractor shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

**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. The project work limits shall be established by the City of Port St. Lucie prior to construction. 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 sole 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. If Contractor sells all or a majority of its shares, merges with, or otherwise is acquired by or unifies with a third party, it shall notify the City within ten (10) days. If after such notice, the City determines in its sole discretion, it may terminate the Contract, without penalty.

## **SECTION XX** **TERMINATION**

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

- I. The Contractor fails to deliver or has delivered nonconforming services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- II. The Contractor fails to make substantial and timely progress toward performance of the Contract;
- III. In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in

- immediate termination of the contract effective as of the date on which the license or certification is no longer in effect;
- IV. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
  - V. The Contractor has failed to comply with applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing within the scope of the Contract;
  - VI. 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** - 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 successful 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.

**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 out of 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**  
**E-VERIFY**

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

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

**SECTION XXIII**  
**TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of section 287.055, Florida Statutes, the Contractor 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 City determines the Contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

**SECTION XXIV**  
**CONFLICT OF INTEREST**

The City hereby acknowledges that the 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(s) to resolve the conflict of interest. The City Manager shall determine whether a conflict of interest exists. At the time of each Project Proposal the Contractor shall disclose all of its Treasure Coast clients and related Scope of Work.

**SECTION XXV**  
**PUBLIC RECORDS / TRADE SECRETS / COPYRIGHT**

The Proposer's response to the City's proposal request is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, section [119.07, Florida Statutes](#) ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this City's proposal request and the Contract to be executed as subject to the provisions of the Public Records Law.

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

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

**SECTION XXVI**  
**PROHIBITION AGAINST CONTINGENT FEES**

The Contractor warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide



employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

### **SECTION XXVII** **ATTORNEY'S FEES**

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

### **SECTION XXVIII** **CODE OF ETHICS**

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

### **SECTION XXIX** **COMPLIANCE WITH LAW, RULES, & REGULATIONS**

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 it, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Contract. Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City.

### **APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS**

**All applicable State and Federal Statutes must be followed (i.e. Davis Bacon, Child Labor Laws, Equal Employment Opportunities, etc.). Failure to comply with all general conditions may result in removal from the project.**

In addition to other provisions required by the Federal agency or non-Federal entity, **all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.**

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

Termination for Cause and Convenience; Remedies: are discussed elsewhere in this Contract.

The following Items (1) through (12) are "MANDATED CONDITIONS that will be incorporated into the awarded contract as well as all applicable provisions of the DAVIS BACON ACT as amended (40 U.A.C.3141-3148). These following numbered sections are from the Federally Funded Subaward and Grant Agreement between the City of Port Saint Lucie and the Florida Division of Emergency Management (Pass-Through Entity) for the Federal Emergency Management Agency:

(1) EQUAL OPPORTUNITY EMPLOYMENT

In accordance with 41 C.F.R. §60-1.4(b), the Sub-Recipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an

investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require

for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) COPELAND ANTI-KICKBACK ACT

The Sub-Recipient hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:

Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.

Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

Breach. A breach of the Contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(3) CONTRACT WORK HOURS AND SAFETY STANDARDS

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do

not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

For contracts to be in compliance with the Contract Work Hours and Safety Standards Act the following are required:

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The U.S. Department of Treasury shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(4) CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds \$150,000, then any such contract must include the following provision:

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q).

The Contractor agrees to report each violation to the City of Port St. Lucie and understands and agrees that the City of Port St. Lucie will, in turn, report each violation as required to assure notification to the U.S. Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by U.S. Department of the Treasury.

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant the Federal Water Pollution Control Act as amended (33 U.S.C.1251-1387).

The Contractor agrees to report each violation to the City of Port St. Lucie and understands and agrees that the City of Port St. Lucie will, in turn, report each violation as required to assure notification to the U.S. Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by U.S. Department of the Treasury.

The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by U.S. Department of Treasury.

(5) SUSPENSION AND DEBARMENT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:

This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the Division. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(6) BYRD ANTI-LOBBYING AMENDMENT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following clause:

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(7) CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

a. If the Sub-Recipient, with the funds authorized by this Agreement, seeks to procure goods or services, then, in accordance with 2 C.F.R. §200.321, the Sub-Recipient shall take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible:

1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs i. through v. of this subparagraph.

b. The requirement outlined in subparagraph a. above, sometimes referred to as "socioeconomic contracting," does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms. Rather, the requirement only imposes an obligation to carry out and document the six affirmative steps identified above.

c. The "socioeconomic contracting" requirement outlines the affirmative steps that the Sub-Recipient must take; the requirements do not preclude the Sub-Recipient from undertaking additional steps to involve small and minority businesses and women's business enterprises.

d. The requirement to divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises, does not authorize the Sub-Recipient to break a single project down into smaller components in order to circumvent the micro-purchase or small purchase thresholds so as to utilize streamlined acquisition procedures (e.g. "project splitting").

- (8) DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141–3148). As required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

The Wage Decision to use for this Contract is Not Applicable.

#### (9) PROCUREMENT OF RECOVERED MATERIALS

Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certification to City of Port St. Lucie. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage for recovered material practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand (\$10,000) dollars or the value of the quantity acquired during the preceding fiscal year exceeds ten thousand (\$10,000) dollars; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for the procurement of recovered materials identified in the EPA guidelines.

In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a timeframe providing for compliance with the Contract performance schedule; meeting Contract performance requirements; or at a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid



Waste Disposal Act.

(10) PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in Title 2 CFR §200.216 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and as adopted by the U.S. Department of Treasury, as used in this clause—

(b) *Prohibitions.*

(1) Section 889(F)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the Contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the ARPA to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(2) Telecommunications or video surveillance services provided by such entities or using such equipment.

(3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

- (1) This clause does not prohibit contractors from providing—
  - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
  - (i) Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
  - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) *Reporting requirement.*

- (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during Contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this Contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
  - (i) Within one business day from the date of such identification or notification: The Contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

(11) RIGHT TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Contractor agrees to comply with the above requirements when applicable.

(12) DOMESTIC PREFERENCE FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

*Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(13) ACCESS TO RECORDS

The Contractor agrees to provide the City of Port St. Lucie, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to permit the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the Contract.

In compliance with the Disaster Recovery Act of 2018, the City of Port St. Lucie and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(14) CHANGES

To be allowable under the ARPA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

(15) DHS SEAL, LOGO, AND FLAGS

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(16) COMPLIANCE WITH FEDERAL LAW, REGULATIONS AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders and FEMA policies, procedures and directives.

(17) NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

(18) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENT OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

Any procurement involving funds authorized by Hazard Mitigation Grant Program (HMGP) must comply with all applicable federal and state laws and regulations, to include [2 C.F.R. 200.318 through 200.326 as well as Appendix II to C.F.R. Part 200](#).

(19) INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor should adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

(20) REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor should adopt and enforce policies that ban text messaging while driving and should establish workplace safety policies to decrease accidents caused by distracted drivers.

(21) PUBLICATIONS

Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient/Contractor] by the U.S. Department of the Treasury."

(22) COPYRIGHT AND DATA RIGHTS (If applicable)

License and Delivery of Works Subject to Copyright and Data Rights

The Contractor grants to the City of Port St. Lucie, FL, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the Contract but not first produced in the performance of this Contract, the Contractor will identify such data and grant to the City of Port St. Lucie, FL or acquires on its behalf a license of the same scope as for data first produced in the performance of this Contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Contract, the contractor will deliver to the City of Port St. Lucie, FL data first produced in the performance of this Contract and data required by the Contract but not first produced in the performance of this Contract in formats acceptable by the City of Port St. Lucie, FL.

**SECTION XXX**  
**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 XXXI**  
**SEVERABILITY**

The provisions of this Contract shall be deemed severable and if any portion of the Contract is found invalid or unenforceable, it shall not affect the validity or enforceability of the other provisions herein.

**SECTION XXXII**  
**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 bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported

by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The 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 XXXIII** **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 bidders' 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 XXXIV** **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 XXXV**  
**CONSTRUCTION**

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

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

**SECTION XXXVI**  
**NON-EXCLUSIVITY**

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

**SECTION XXXV**  
**ENTIRE AGREEMENT**

This Contract sets forth the entire agreement between Consultant 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. 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

TETRA TECH, INC.

By: \_\_\_\_\_  
Purchasing Agent

By: Jonathan Burgiel  
Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA            )  
  ) ss  
COUNTY OF ORANGE        )

The foregoing instrument was acknowledged before me by  physical presence or  online notarization, this 15th day of August, 2024, by Jonathan Burgiel who is  personally known to me, or who has  produced the following identification:

\_\_\_\_\_.



NOTARY SEAL/STAMP

MP  
\_\_\_\_\_  
Signature of Notary Public

Melissa Cremeans  
\_\_\_\_\_  
Print Name of Notary Public  
Notary Public, State of Florida  
My Commission expires: 2/9/2027