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SECTION III

DESCRIPTION OF SERVICES TO BE PROVIDED

Consultant will perform design, permitting, bidding assistance and construction administration/observation services to the City's Utility Systems Department for the Western 30" and 24" Raw Water Main Project. The proposed improvements are required to deliver raw water from proposed Floridan wells (Wells F-37, F-38 and F-39) west of I-95 to the JEA Water Treatment Plant. The proposed raw water main route is generally described as commencing from the JEA Water Treatment Plant, then south along LTC Parkway (approximately 2,000 LF) then west (approximately 12,700 LF) to Well F-39. A horizontal directional drill for the segment under I-95 is proposed. The raw water main extension is approximately 14,700 LF in total length. The CONSULTANT is responsible for the development of technical specifications, survey, easement preparation, geotechnical and soft dig services.

SCOPE OF SERVICES

Task 1. Preliminary Design Services (30%). The CONSULTANT will conduct a "kick-off" meeting with the CITY and their representatives to discuss the overall project. Prior to this meeting, the CONSULTANT will "walk" the proposed route to confirm constructability issues to be discussed at the kick-off meeting. The topographic services (Task 2) will be authorized after the kick-off meeting. The preliminary design (30%) shall address the requirements of the project and shall include the base survey in the background. The intent of the preliminary design (30%) is for the CONSULTANT to acquire CITY acceptance of the new raw main alignment that will be noted on the base sheets (without any profiles), connections, valve locations and stub outs to future well sites. Existing utilities will be identified along with possible conflicts. The intended locations of geotechnical bores and soft dig locations will be noted. Areas requiring additional easement or right-of-way acquisition, if any, will be noted. The CONSULTANT will submit the preliminary design (30%) plans to the CITY for review and will meet in person or virtually to discuss prior to commencing with the design services noted in Task 5.

Deliverables:

- Kickoff meeting minutes
- Preliminary Design (30%) plans in a PDF format
- Topographic Survey

Task 2. Topographic Survey and Easement Preparation Services

- i. The CONSULTANT will utilize William B. Zentz & Associates, Inc., perform a topographical survey within the project corridor. The survey will include approximately 150 LF into the JEA WTP (north access road), the westerly side of LTC Parkway from the roadway centerline to the Olympia

Building Supply building (half right-of-way), then west to Well F-39 along the proposed 20ft easement, to include cross section of I-95, location/cross section of the historical ditch to remain, location/estimated height of FPL power lines within the project limits.

- ii. The survey shall include locations of existing improvements within the right-of-way/easements, topographic data at 50 ft. intervals, locations of surface markings of underground utilities and locations/depths of up to twelve (12) soft digs to be performed under Task 4.
- iii. The proposed raw water main will require several easements (legal descriptions/sketches) to be written and prepared. In addition, the property corners of the proposed well sites will be pinned. The CONSULTANT's subconsultant, William B. Zentz & Associates, Inc. will develop the following easement descriptions for CITY's review.
 - a. LTC Industrial Park (east of I-95, to the west right-of-way of LTC Parkway)
 - b. Greenpointe Parcel (between I-95 and FPL)
 - c. Greenpointe Parcel (segment thru FPL)
 - d. FPL Parcel (just west of No. 3 above)
 - e. Greenpointe Parcel (from FPL Parcel to west end of project)
 - f. Well F37 to the raw water main easement within the FPL corridor
 - g. Well F38 to the raw water main easement within the FPL corridor
 - h. Well F39 to the raw water main easement within the FPL corridor
 - i. Each proposed 1.0 acre well site, F37, F38 & F39, along with the setting (pinning) of the property corners.

Deliverables:

- Topographic Survey (AutoCAD/PDF format)
- Legal description/sketches (11 total as noted above)

Task 3. Geotechnical Services

The CONSULTANT will utilize Terracon Consultants Inc., to perform geotechnical services within the project limits. The subconsultant will perform two (2) 75 ft. Standard Penetration Test (SPT) bores and seven (7) 25 ft. SPT bores. The subconsultant shall provide a geotechnical engineering report of their findings for use by KHA in their design.

Deliverables:

- Geotechnical Engineering Report

Task 4. Soft Dig Services

The CONSULTANT will utilize Infra Map Corp., to perform up to twelve (12) soft dig utility test holes, at locations determined by the CONSULTANT. The utility test holes will be coordinated with the survey services to capture locations and depths of the existing utility identified.

Deliverables:

- Soft Dig Report

Task 5. Design Services (60%, 90% and Final)

Upon acceptance of the preliminary design (30%), the CONSULTANT shall prepare and submit 60%, 90% and Final design plans and technical specifications depicting the construction of the new raw water main in accordance with the project schedule.

The 60% design shall include pipe profiles without call outs, identify utility conflicts, utility test hole data, connection details for CITY review and discussion at the 60% review meeting. The CONSULTANT will also provide an opinion of probable construction cost (OPCC) and draft technical specifications with this submittal.

Upon acceptance of the 60% design by the CITY, the CONSULTANT will commence with the 90% design incorporating CITY comments from the 60% review and develop the plans to a level that (if no additional comments are made) would be sufficient for submittal of permit applications to the applicable permitting agencies noted in Task 6. The CONSULTANT will provide an updated OPCC and technical specifications with the 90% submittal.

Upon acceptance of the 90% design by the CITY, the CONSULTANT will finalize the plans and technical specifications (including insertion of CITY provided upfront documents) for a complete set of documents to be used for bidding and construction.

The drawings will be based on the AutoCad Civil 3D base files developed by the CONSULTANT. The drawings will depict the proposed raw water main extension work in plan and profile view at a 1" = 40' scale, depicted in a single plan/profile view per sheet. Technical specifications will be developed based on CITY Design Standards. It is estimated that the plan set to be developed by CONSULTANT will consist of approximately thirty-six (36) plan sheets to include the following:

- G-1 Cover Sheet
- G-2 General Notes Sheet
- G-3 Key Sheet
- C-1 – C-30 Single Plan and Profile Sheets
- D-1 – D-3 Construction Details

Deliverables:

- Design plans (60%, 90% and Final) in PDF format, with Final plans in PDF and AutoCAD Version 2020 will be submitted
- Technical specifications at 60%, 90% and Final, with CITY upfront documents at 90% and Final
- OPCC with the 60% and 90%

Task 6. Permitting Services

The CONSULTANT shall prepare applications for permits to construct the Project for submittal to the following agencies:

- Florida Department of Transportation (FDOT) Utility Right-of-Way Permit for the work performed within the I-95 right-of-way. The permit and supporting documentation will be submitted via the FDOT's electronic "One Stop Permitting" process that will require the CITY Project Manager to acknowledge the project within the FDOT "One Stop Permitting" site.
- Florida Department of Environmental Protection (FDEP) "Application for a Specific Permit to Construct PWS Components", DEP Form 62-555.900(1).
- City of Port St. Lucie Public Works Department Right-of-Way and Easement (Excavation) Permit for work within City owned right-of-way. The permit and supporting documentation will be submitted electronically.
- FPL Consent Agreement for work within FPL's easement area as noted under Task 2.

The CONSULTANT shall respond up to two (2) Requests for Additional Information (RAIs) from each of the permitting agencies noted above. Permit fees will be paid by the CITY.

The CONSULTANT shall provide signed-and-sealed drawings to the selected contractor as required to be submitted to obtain applicable permits.

It is assumed that all improvements will be constructed in public rights-of-way or existing utility easements, and no wetland or environmental permitting will be required.

Deliverables:

- Copies of Permit Applications and RAI responses, along with the actual approved permits

Task 7. Bidding Services

Copies of the plans and specifications will be provided to the CITY for bidding purposes. The CITY will be responsible for publicly advertising the project and administrating the bid on DemandStar. The CONSULTANT will attend the pre-bid meeting at the CITY, respond to potential bidder's requests for information and prepare addenda as needed, which will be distributed to all bid document holders by the CITY. The CONSULTANT will review the bids and provide a letter to the CITY recommending award.

Deliverables:

- Copies of addenda
- Letter recommending award

Task 8. Construction Administration/Observation Services

The CONSULTANT shall prepare conformed documents (plans and specifications) for the CITY's use in the execution of the contract with the contractor. In addition, the CONSULTANT shall perform the following.

- Prepare for and conduct the pre-construction meeting and distribute meeting minutes.
- Issue the contractor's Notice to Proceed.
- Respond to a reasonable number (up to four (4) RAI's) of Requests for Additional Information (RAI) and clarifications for the construction of this project. CONSULTANT will respond in written format in a timely manner.
- Review shop drawings and submittals for their conformance with the design documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice, sequences, or procedures of construction or to related safety precautions. It is assumed that approximately twelve (12) submittals will be reviewed. CONSULTANT will provide written comments to CITY/contractor within a reasonable time. CONSULTANT will strive to complete the reviews within ten (10) working days.
- Review and recommend approval of contractor monthly pay requests, up to six (6) pay requests.
- Review and recommend for approval up to two (2) contractor requests for change orders.
- Provide part-time on-site construction observation with the other remaining observation time being performed by CITY staff. Assuming a 6-month construction schedule, with 5-months of actual construction activities, it is assumed that three (3) site visits per week will be made by the CONSULTANT, at 8-hours per visit, or a total of 480 hours over the 5-month construction duration. Consultant shall not, during such visits, or as a result of such observations, supervise, direct, or have control over Contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with applicable laws and regulations. Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- CONSULTANT will attend up to ten (10) bi-weekly progress meetings on-site.
- During the JEA WTP tie-in (estimated to be 2-days) and the installation of the I-95 directional bore (estimated to be 4-days) the CONSULTANT will be on-site full time for those days noted.
- Review contractor provided record drawing information and offer review comments.
- CONSULTANT shall develop a final punch list of contractors required contract items.
- CONSULTANT shall prepare the Substantial Completion forms as required by the construction contract.
- CONSULTANT shall prepare the appropriate regulatory completion/certifications forms required by the issuing agency to close out the project.
- CONSULTANT shall confirm that all required punch lists identified are completed prior to preparing final close out documents.
- Prepare final contractor close out documents to include, final pay request, final balancing change order, contractor sub release of liens and warranty items.

ASSUMPTIONS

The CONSULTANT has made the following assumptions in the development of this scope of services:

1. The CITY will pay for all permit related fees. These can be incorporated into the CONSULTANT’s scope of services if desired by the CITY.
2. The connection to the existing raw water main within the JEA WTP is approximately 150 LF within the plant property.
3. The project does not require any environmental studies along the raw water main as the underlying developer has addressed this within their Developer Agreements.
4. The CONSULTANT is aware of the historical ditch west of I-95 that is to remain and will design the raw water main accordingly.
5. The CITY will pay for all easement recordation costs and the recording of the easement thru the St. Lucie County Courthouse. These services can be incorporated into the CONSULTANT’s scope of services if desired by the CITY.
6. The CITY will provide locations of future well sites, F-37, F-38 and F-39 for CONSULTANT use in developing the legal description and sketch and setting of property corners.
7. The future stub-outs to Wells F-37 and F-38 up to the right-of-way/easement line will be shown on the design plans. The raw water main will be extended south, approximately 800 LF, to Well F-39.

SECTION IV
TIME OF PERFORMANCE

The Contract period shall start _____ and will terminate _____, four hundred eighty (480) calendar days later (“Termination date”). In the event all work required in the contract specifications has not been completed by the Termination date, the Consultant agrees to provide work at no additional cost as authorized by the Project Manager until all work specified in the contract specifications has been rendered and accepted by the City.

SCHEDULE OF DELIVERY

Time periods to perform the professional services are estimated as follows:

Task Name	Duration
Task 1 – Preliminary Design Services (30%)	75 Days
Task 2. i. – Topographic Survey Services (*)	40 Days
Task 2. ii. - Easement Preparation Services (**)	30 Days
Task 3 – Geotechnical Services (***)	30 Days
Task 4 – Soft Dig Services (***)	20 Days
Task 5 – Final Design Services	
60% Design Submittal	60 Days
90% Design Submittal	50 Days
Final Design Submittal	40 Days
Task 6 – Permitting Services	60 Days

Task 7 – Bidding Services	Commensurate with the City’s process
Task 8 - Construction Administration/Observation Services	180 Days

**SECTION V
RENEWAL OPTION**

N/A.

**SECTION VI
COMPENSATION**

The total amount to be paid by the City to the Consultant is on a lump sum basis per the fee schedule for a grand total not to exceed **\$537,135.00.**

TASK	TOTAL COST
Task 1 – Preliminary Design Services (30%)	\$46,650
Task 2. i. – Topographic Survey Services	\$42,470
Task 2. ii. – Easement Preparation Services	\$28,530
Task 3 – Geotechnical Services	\$18,330
Task 4 – Soft Dig Services	\$12,350
Task 5 – Design Services (60%, 90% and Final)	\$133,470
Task 6 – Permitting Services	\$33,235
Task 7 – Bidding Services	\$15,555
Task 8 – Construction Administration/Observation Services	\$206,545
TOTAL, ALL TASKS	\$537,135

EXHIBIT A

SCHEDULE OF HOURLY BILLING RATES

The rates and charges outlined below are used to develop compensation amount for the lump sum project under this contract.

1. Kimley-Horn and Associates	Rates
Principal Engineer, P.E.	\$ 275
Senior Project Manager	\$ 265
Senior Engineer, P.E.	\$ 250
Project Engineer, P.E.	\$ 175
Engineering Intern (EI)	\$ 135
Senior Designer	\$ 155
Senior Inspector	\$ 155
Administrative Services	\$ 80

Progress Payments- Within twenty (20) business days, the City shall pay the Consultant, the sum of money due each Progress Payment that is properly allocated to labor, materials and equipment incorporated in the work for the period covered in the application for progress payment.

Acceptance and Final Payment - When City finds the work acceptable under the terms of the Contract and the Contract is fully performed the entire balance will be due the Consultant and will be paid to the Consultant within twenty (20) business days. Such final payment to the Consultant shall be subject to the covenants in the Contract's Standard Specifications.

Invoices for services shall be submitted once a month, by the tenth (10th) day of each month, and payments shall be made within twenty (20) business days of receipt of Consultant's valid invoice, provided that the invoice is accompanied by adequate supporting documentation and is approved by the Project Manager as required under Section XV of the Contract.

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

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

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

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

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

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

SECTION VII **AUDITS**

The Consultant shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the City 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 to be maintained include both financial records and service records. The Consultant shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Consultant relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such records may be located during normal business hours. The Consultant shall not impose a charge for audit or examination of the Consultant's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Consultant for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

SECTION VII **WORK CHANGES**

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

SECTION VIII **CONFORMANCE WITH PROPOSAL**

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Consultant pursuant to the Solicitation and Specifications on file in the Procurement Management

Department of the City. All documents submitted by the Consultant in relation to said proposal, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

SECTION IX **INDEMNIFICATION/HOLD HARMLESS**

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

SECTION X **SOVEREIGN IMMUNITY**

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

SECTION XI **INSURANCE**

The Consultant agrees to indemnify, and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligent act, recklessness, or intentional wrongful misconduct of the Consultant and persons employed or utilized, including any independent consultants or subconsultants by the Consultant in the performance of this contract.

The Consultant shall on a primary basis and at its sole expense agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

Workers' Compensation Insurance & Employer's Liability: The Consultant shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis.

Commercial General Liability Insurance: Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

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

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

Except as to Workers' Compensation and Employers' Liability, and Professional Liability, Certificates of Insurance and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Business Auto 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 for Contract # 20210022 Design & Permitting of the Western 30" & 24" Raw Water Main Projects shall listed as additional insured.**" Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Consultant shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City.

Automobile Liability Insurance: The Consultant shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Consultant does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Consultant to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

Professional Liability Insurance: Consultant shall agree to maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than \$2,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000 the City reserves the right, but not the obligation, to review and request a copy of Consultant's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, the Consultant warrants the retroactive date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, Consultant shall agree to purchase a SERP with a minimum reporting period not less than four (4) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided

Waiver of Subrogation: The Consultant shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Consultant shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

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

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

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

The City by and through its Risk Management Department reserves the right, but not the obligation, to review, modify, reject or accept any required policies of insurance, including limits, coverages or

endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A:VII or better. When a self-insured retention or deductible exceeds \$5,000, The City reserves the right, but not the obligation, to review and request a copy of bidder's most recent annual report or audited financial statement.

A failure on the part of the consultant to execute the contract and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment of the award.

SECTION XII **ACTS OF GOD**

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

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

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

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

SECTION XIV **COMPLIANCE WITH LAWS**

The Consultant shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Consultant will comply with all requirements of [28 C.F.R. § 35.151](#). Consultants and Sub-Consultant, shall comply with [§ 119.0701, Fla. Stat.](#) The Consultant and Sub-Consultant, are to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this Contract, unless the records are exempt from [Art. I, § 24\(a\), Fla. Const.](#) and [§ 119.07\(1\)\(a\), Fla. Stat.](#) Pursuant to [§ 119.10\(2\)\(a\), Fla. Stat.](#), any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in [§ 775.082](#) and [§ 775.083 Fla. Stat.](#)

RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Consultant shall comply with Florida's Public Records Law. Pursuant to Section 119.0701, F.S. Consultant agrees to comply with all public records laws, specifically to:

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

1. The timeframes and classifications for records retention requirements must be in accordance with the [General Records Schedule GS1-SL for State and Local Government Agencies](#).
2. During the term of the contract, the Consultant shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Consultant's records under this Contract include but are not limited to, supplier/subconsultant invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Consultant agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Consultant who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the City.

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Consultant, or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC

RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

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

SECTION XV
INSPECTION AND CORRECTION OF DEFECTS

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

SECTION XV
SCRUTINIZED COMPANIES

[Section 287.135, Florida Statutes](#), prohibits agencies from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran petroleum Energy Sector List, or do any business with Cuba or Syria. Both lists are created pursuant to [Section 215.473, Florida Statutes](#) <https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/GlobalGovernanceMandatesandFlorida%20Statutes20190129.pdf?ver=2019-01-29-130006-790>.

SECTION XVI
ADDITIONAL REQUIREMENTS

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

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

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

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

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

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

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

Standard Production Items - All products offered must be standard production items that have been available to the trade for a period of not less than two (2) years and are expected to remain available in future years.

SECTION XVII **ASSIGNMENT**

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

SECTION XVIII **TERMINATION AND DELAYS**

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

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

- immediate termination of the contract effective as of the date on which the license or certification is no longer in effect;
- IV. The Consultant becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Consultant terminates or suspends its business; or the City reasonably believes that the Consultant has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - V. The Consultant has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the contract;
 - VI. The Consultant has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
 - VII. The Consultant furnished any statement, representation or certification in connection with the contract, which is materially false, deceptive, incorrect or incomplete.

Notice of Default. If there is a default event caused by the Consultant, the City shall provide written notice to the Consultant requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Consultant. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- I. Immediately terminate the contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the contract and seek any legal or reasonable remedies; and/or
- III. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Consultant

Termination for Convenience. The City, in its sole discretion, may terminate this contract at any time without cause, by providing at least sixty (60) days' prior written notice to Consultant. Any such termination shall be accomplished by delivery in writing of a notice to Consultant. Following termination without cause, the Consultant shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the contract to the City up to the time of termination, pursuant to Florida law.

SECTION XIX **LAW, VENUE AND WAIVER OF JURY TRIAL**

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Contract shall be in St. Lucie County, Florida.

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

SECTION XX **APPROPRIATION APPROVAL**

The Consultant acknowledges that the City of Port St Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Consultant agrees that, in the

event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

SECTION XXI
TRUTH-IN-NEGOTIATIONS

In accordance with the provisions of Section 287.055, Florida Statutes, the Consultant agrees to execute a truth-in-negotiations certificate and agrees that the original Contract price and any additions may be adjusted to exclude any significant sums by which the Contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

SECTION XXII
CONFLICT OF INTEREST

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

SECTION XXIII
PUBLIC RECORDS / TRADE SECRETS / COPYRIGHT

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

Any language contained in the Proposer's response to the Solicitation purporting to require confidentiality of any portion of the Proposer's response to the Solicitation, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the Solicitation constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Proposer agrees to 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.

SECTION XXIV
PROHIBITION AGAINST CONTINGENT FEES

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

not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

SECTION XXV
ATTORNEY'S FEES

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

SECTION XXVI
CODE OF ETHICS

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

SECTION XXVII
POLICY OF NON-DISCRIMINATION

Consultant shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Consultant shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION XXVIII
SEVERABILITY

The Parties to this Contract expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body. If any provision of this Contract is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Contract) and the remainder of this Contract, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Contract to be inequitable under the circumstances.

SECTION XXIX
ENTIRE AGREEMENT

The written terms and provisions of this Contract shall supersede any and all prior verbal or written statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

SIGNATURE PAGE FOLLOWS

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

CITY OF PORT ST. LUCIE FLORIDA

CONSULTANT

By: _____
Purchasing Agent

By: Jonathan Martin
Authorized Representative

State of: FLORIDA County of: ORANGE

Before me: Remote online notarization or
 Personally appeared: Jonathan Martin, P.E., Sr. Vice President
(Please print)

Please check one:
Personally known
Produced Identification: _____
(Type of identification)

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

WITNESS my hand and official seal, this 22 day of July, 2021.

[Signature]
Notary Signature

Notary Public State of FLORIDA at Large.

My Commission Expires May 16, 2022.

(seal)

