

**CITY OF PORT ST. LUCIE
CONTRACT # 20210081**

This Contract for Design of the Southport 24" Force Main to Glades Booster Pump Station, executed this _____ day of _____, 2022, 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 Kimley-Horn and Associates, Inc., hereinafter called "Consultant" or "Proposer".

**SECTION I
RECITALS**

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

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

WHEREAS, the City wishes to contract with a Consultant to provide the Scope of Services and products / services based on the terms and subject to the conditions contained herein; and

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

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

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

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

**SECTION II
NOTICES**

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

Consultant: Kimley-Horn and Associates, Inc.
Thomas C. Jensen, P.E.
Title: Project Manager
E-Mail: tom.jensen@kimley-horn.com

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

City Project Manager: Carlos Camacho
Utility Engineering Division
900 SE Ogden Ln
Port St. Lucie, FL 34983

SECTION III

DESCRIPTION OF SERVICES TO BE PROVIDED

BACKGROUND This project will provide design of a new 24" force main (FM) to divert up to 4 million gallons per day from the Southport Booster Pump Station to the Glades Wastewater Booster Pump Station (WWBPS). This flow will bypass the Westport Wastewater Treatment Facility (WWTF) and be transferred to the Glades WWTF. The Westport WWTF will be limited to 6 MGD and is not anticipated to require additional capacity but will likely require nutrient removal in the near future (not part of this contract). The proposed force main will also allow for the ability to send flow from Westport WWTF in periods of low demand for reuse water.

INTENT

To address the necessary force main improvements, construction will take place in two (2) segments. Segment One will be a new 24" FM starting approximately 250LF west of Community Blvd. on Discovery Way (Segment Two's Point of Connection), then west to the west side of SW Brookside Falls Way (approx. 9,000LF) in the Riverland's Parcel C area of Port St. Lucie. This proposed Segment One force main will be designed and constructed by OTHERS.

The Segment Two project will involve the design, permitting, Construction Manager at Risk (CMAR) procurement assistance and construction administration services by the Consultant for a new 24" FM starting with a connection to an existing 24" FM at the intersection of Darwin Blvd. and SW Yale Street.. From there the force main will be routed northerly along a City owned drainage easement to a City owned canal right of way, going westerly within the canal right of way to Rosser Blvd. The force main will then be routed south along Rosser Blvd. to SW Dreyfuss Blvd., then be routed west along SW Dreyfuss Blvd., crossing under I-95. From the west side of the I-95 right of way, the proposed force main will be routed north along I-95 in an existing City owned easement to SW Discovery Way, then routed west along SW Discovery Way to the Point of Connection to the Segment One 24" FM that lies 250LF west of Community Blvd., then connect to the west end of the Segment One 24" FM, and extend the 24" FM 3,150LF west to a point of connection to an existing 24" FM. The Consultant will also perform a hydraulic model of the proposed force main to confirm pipe sizes and hydraulic operations between the two plants. Refer to attached map that delineates the proposed force main route described above.

In addition, the City will require the Consultant to design a 16" FM extension (pipe size to be reconfirmed by the Consultants hydraulic model analysis) from Darwin Blvd to an existing 16" FM point of connection inside the Westport WWTF, adjacent to the plants surge tank. To provide functionality and control to the proposed force main system, the Consultant will design two (2) control valves in a vault and a single meter assembly in a vault on an existing 24" force main in front of the Westport WWTF headworks. The connection of these new control valves and meter assemblies into the plants telemetry system will be performed by OTHERS.

Engineering Services include preliminary design, hydraulic modeling, CMAR procurement document/assistance, final design, permitting, Guaranteed Maximum Price (GMP) review assistance and construction phase services for the Southport 24" Force Main to the Glades WWBPS. The proposed Segment Two force main project route as outlined above includes approximately 33,200LF of 24" FM with several horizontal directional bores under streets and through canal rights of way, and 1,550LF of 16" FM within the Westport WWTF. Total Segment Two pipe length is 34,750LF.

Due to the size of the Segment Two project and as directed by the City, the Consultant will develop design and permit documents to construct the Segment Two project in three (3) phases. The construction phases could overlap one another depending upon the design and permitting schedules.

Phase 1. This phase will consist of the 1,550LF of 16" FM within the Westport WWTF and associated control valves and meter improvements. It should be noted that this phase will NOT be constructed by the CMAR, and will be constructed by one of the City's on-call construction contractors.

Phase 2. This phase will consist of the 24" FM eastern portion of the project, from the point of connection at Darwin Blvd. and SW Yale Street to Rosser Blvd. and Dreyfuss Blvd., approximately 17,000 LF. The construction of this phase will be performed by the City's selected CMAR.

Phase 3. This phase will consist of the 24" FM western portion of the project, from the end of Phase 2 noted above, at Rosser Blvd. and Dreyfuss Blvd., to the point of connection at Riverland Blvd. and Discovery Way, and at the west end of the Segment One project to an existing 24" FM, approximately 16,200LF. The construction of this phase will be constructed by the City's selected CMAR.

METHOD OF PROJECT DELIVERY – CMAR FOR PHASES 2 AND 3 WORK WITHIN SEGMENT TWO

As noted above, Phase I work will NOT be constructed by the City's selected CMAR. This phase of work will instead be constructed by one of the City's on-call contractors.

During the 30% Design for Phases 2 and 3 Work, the Consultant will prepare procurement documents for the City to use to select a Construction Manager At Risk. A CMAR will be selected by the City to manage the performance of all services necessary for the successful completion of the project. During the Pre-construction Phase of Phases 2 and 3 noted above, the CMAR will assist the City and Consultant to provide input on buildability and value engineering, provide the City with a GMP, and advise on means or methods and material types for potential cost savings to the City. The CMAR will complete the Construction Phases by the utilization of subcontractors who are qualified, experienced, and licensed companies/contractors who specialize in the various areas covered in the scope of the project. The project construction will be inclusive of obtaining necessary permits, the selection and subcontracting of companies/contractors for goods and services that bring quality, economic benefits, and value engineering to the City.

The methods of installation chosen and implemented by the CMAR for the proposed force main shall be by any means necessary in accordance with the latest edition of the City's Water & Sewer Standards Manual and as allowed by the Florida Department of Transportation (FDOT), Florida Department of Environmental Protection (FDEP) and the City of Port St. Lucie Public Works Department. The Consultant should determine the most economical pipe size/alignment while remaining consistent with the City standards and specifications.

The installation along the route will require multiple roadway crossings, which include but are not limited to Port St. Lucie Blvd., Savona Blvd., Rosser Blvd., Village Parkway, Community Blvd., Darwin Blvd., and Interstate I-95. There are existing electrical lines, poles, other "dry" utilities and other related items within the routes as well.

The force main will be installed within existing or proposed City easements, FDOT rights of way and road or drainage/canal rights-of-way. There may be water bodies adjacent to the route, but at this time, no impacts to the environmentally sensitive areas are anticipated. The need for any temporary construction or permanent easements will be evaluated early in the design process to allow time for acquisition/approvals. Any easement and right-of-way issues will be coordinated by the design team and addressed during the project design phase.

DESIGN APPROACH AND WORK PLAN

Task 1 – Team Kick-Off Meeting

The Consultant will conduct a "kick-off" meeting with City staff and the Consultant's design team and their CMAR experts to discuss the overall project. This meeting will be in-person at the City's offices.

Task 1 Deliverables:

- Kick-off meeting minutes

Task 2 – Hydraulic Modeling

The Consultant will prepare a hydraulic model of the Segment One and Two force main extension, using WaterCad/WaterGems, to confirm the final pipe size and system hydraulics between the two WWTF's to ensure the ability to divert up to 4 MGD of wastewater. The model will include the proposed control valves and meter to be constructed on the Westport WWTF site. The Consultant will run up to four (4) scenarios and provide a recommended pipe size. Note that the City will provide an existing conceptual hydraulic model, that is in the WaterCad/WaterGems format of their force main system to assist the Consultant.

Task 2 Deliverables:

- Hydraulic modeling report with modeling run scenarios, electronic copy only

Task 3 – Special Subconsultant Services

Task 3.1 Geotechnical Services

- Perform subsurface explorations along the force main route necessary for the characterization of the existing subsurface conditions and development of preliminary design criteria for the proposed force main. Geotechnical borings will be required at planned intervals of 1,500-ft. and to a depth of five (5) feet below the pipe invert and the drill pits. The subsurface explorations are assumed to occur within the roadway right-of-way.
- Perform SPT borings. A total of fifteen (12) 10-ft deep bores and four (4) 50-ft bores and two (2) 75-ft bores will be completed.
- Perform classification tests on selected samplings obtained from the borings.
- Visually classify soil samples in general accordance with the United Soil Classification System and prepare Test Boring Records.
- Summarize the results of the geotechnical investigations and provide recommendations for surface preparation and design of any proposed structures.
- Review site specifications and revise as appropriate for site-specific requirements.
- A Geotechnical Report will be available for review by the City if requested.

Task 3.2 Site Survey

- A topographic survey in accordance with current standards shall be performed, in addition to a right-of-way survey. The survey shall include both sides of roadways (right of way to right of way) or centerline of canal to right of way along the project route and shall include the utility surface observed locates within the project area.
- The Surveyor shall locate existing trees and determine the size and species of existing trees.
- The Surveyor shall prepare a final AutoCAD survey meeting the standards set by CITY and Consultant. Signed and sealed copies will be available for review by the City if requested.

Task 3.3 Easements

- The Consultant shall submit documents to the City of Port St. Lucie Utility Systems Department (PSLUSD) for their use in obtaining easements that are to be obtained along the pipe route. Legal descriptions and sketches will be provided as well as the legal easement agreements. In addition, purchase of vacant lots by the City may be required to route the 24" FM through a shorter distance. Currently, it is anticipated that up to four (4) easements may be required along the pipeline route.

Task 3.4 Subsurface Survey

- A subsurface survey in accordance with current standards of ASCE 38-02 Quality Level A, B, C and D will be performed as follows:
 - Quality Level D – Utility Records Research – QLD information will be gathered and prepared throughout the extent of the final project route as outlined in the “Revised Route analysis”. No more than 77,000 LF of utilities to be included in the QLD investigation.
 - Quality Level C & B – Utility Designating and Survey – Utility designating, and survey will be performed to provide horizontal locations of utilities. No more than 47,000 LF of utilities will be designated. A Quality Level B investigation will be performed at the following locations, as directed by the client:
 1. Intersection of SW Community Blvd. and SW Discovery Way, 100-ft either side of the intersection.
 2. Intersection of SW Village Parkway and SW Discovery Way, 100-ft either side of the intersection.
 3. The west end of SW Discovery Way, from the I95 west right of way, to 200-ft west of the I95 right of way.
 4. Rosser Blvd. from 100-ft south of SE Dreyfuss Blvd., north to canal (just north of SW Aledo Ln.).
 5. At the north canal right of way on SW Savona Blvd., go 200-ft south along Savona from the canal north right of way.
 6. At the north canal right of way on SW Port St. Lucie Blvd., go 300-feet south along Port St. Lucie Blvd. from the canal north right of way.
 7. Intersection of Port St. Lucie Blvd. and SW Darwin Blvd., go 800-ft SE along Darwin from east edge of pavement at Port St. Lucie Blvd.
 8. Intersection of Darwin and SW Feldman (entrance road to plant), go into plant 1,600-ft.
 - Quality Level A – Air Vacuum Excavation Test Holes – Air vacuum excavation test holes will be performed at the proposed test hole locations once utility designating and potential utility conflicts have been verified. This proposal includes up to 45 test holes at utility conflict locations.

Task 3.1 to 3.4 Deliverables:

- Geotechnical Report (digital copy)
- Site Survey (PDF and AutoCad file)
- Subsurface Survey Report Outlining QLD A, B, C and D Findings with Exhibits (digital copy)

Task 4 - 30% Preliminary Design Services

The preliminary design (30%) shall address the horizontal alignment 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 final force main alignment along the corridor that will be defined on the base sheets (without any profiles), connections, and valve locations. 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. This design phase will lock the design basis prior to the development of further construction documents. Installation methods are anticipated to be predominantly open-cut with trenchless methods specified in areas where open-cut is not feasible or permissible. The Consultant will submit the preliminary design (30%) plans for each Phase (1, 2 & 3) to the City for review and will attend one meeting (in person or virtually) if needed to discuss the City's input prior to commencing with the 60% design plans.

Task 4 Deliverables:

- Separate Preliminary Design (30%) plans in PDF format for each Phase (1, 2 & 3).
- Topographic and Boundary Survey in PDF format prepared for the route for each Phase (1, 2 & 3).

Task 5 - Preparation of CMAR Documents for Phases 2 and 3

The purpose of this task is to develop the documents for the City to utilize in selecting a CMAR during the design and construction phase of the project.

Task 5.1 – Development of CMAR Requirements

The Consultant will review the requirements of the CMAR selection process to initiate the process for developing RFQ documents. The Consultant shall prepare a summary of the CMAR process, qualification requirements, scope of work, expected deliverables, and preliminary schedule. The Consultant shall also develop a preliminary outline of the RFQ. The Consultant shall submit the above documentation to CITY for review during a workshop. The goal of the workshop is to obtain input on the process and required documentation for initiating the CMAR process specific to the selected integrated solution identified in Task 6. This workshop will include a discussion on the evaluation and selection criteria for the CMAR. A memorandum summarizing the results from the workshop will be prepared and submitted to CITY. Agreed upon comments will be incorporated into the final memorandum that will be used as the basis for developing the RFQ documents

Task 5.2 – CMAR Solicitation Documents

Based on Task 5.1, The Consultant will prepare the technical, qualification, and submittal requirements for the RFQ documents and submit to CITY for review. CITY will be responsible for all other documents that will include but not be limited to the front end/administrative portion of the documents. This task includes two (2) meetings with CITY's procurement department. The Consultant will meet with CITY during these two meetings to review the draft documents and will update the documents based on agreed upon City comments. The CITY will incorporate these documents into the advertisements for a CMAR.

Task 5.3 – Assistance with Proposal and Submittal Review

The Consultant will attend one (1) pre-proposal meeting with the potential CMAR bidders during the RFQ process and will respond to questions during the meeting and the comments that are received during the procurement process. CITY will be responsible for leading the meeting with Consultant assistance.

Task 5.1 to 5.3 Deliverables:

- Preliminary documentation of the CMAR requirements
- Electronic copy of the draft workshop memorandum for CITY review
- Two (2) copies and one (1) electronic copy in pdf format of the final workshop memorandum
- Copies of responses to the CMAR comments to the RFQ.

Task 6 - Integrated Solution Ranking

The purpose of this task is to partner with the City and CMAR to recommend the most cost effective, feasible integrated solution for CITY based on the preliminary findings from the preliminary route evaluations. The Consultant, in collaboration with the City and CMAR, shall identify non-cost evaluation criteria (permit-ability, environmental impact, potential for phasing, construction complexity, etc.) and will partner with the City to develop the basis for the ranking. This will be used to evaluate each alternative along with the capital cost identified in the previous tasks.

Task 6.1 – Development of Integrated Solutions

The Consultant, in collaboration with the City and CMAR, shall finalize the pipe alignment within the corridor of Phases 2 and 3, and the methods of construction from the results in Tasks 4. This includes the preparation of descriptions, schematics, capital and O&M costs (developed by the CMAR and City, respectively), advantages and disadvantages for each construction method. These will be reviewed with CITY within a workshop (combined with Task 6.2 workshop) to confirm the various integrated concepts and obtain input on the advantages and disadvantages before proceeding with the subsequent tasks.

Task 6.2 – Decision Making Framework Development

The Consultant, in collaboration with the City and CMAR, shall develop a draft decision-making framework for assessing the various integrated CITY solutions. The framework will include both cost and non-cost factors including capital costs, operating and maintenance cost, permitting, phasing, and constructability. Criteria and weighting factors for decision making will also be developed. The Consultant shall submit the draft criteria and ranking process to CITY for review and input within a workshop (combined with Task 6.1 workshop) to obtain input and consensus on the criteria and ranking process. The final criteria and ranking process will be submitted to CITY prior to proceeding with the evaluation process.

Task 6.3 – Integrated Solution Recommendation

Using the approved criteria and ranking process, the Consultant, in collaboration with the CMAR and City, shall conduct a preliminary ranking of the various solutions and submit to CITY for review. The Consultant shall review the ranking and make adjustments as necessary during an interactive Workshop with CITY and CMAR. Based on the outcome of this workshop, the Consultant and CMAR shall recommend the integrated solution for implementation.

Task 6.4 – Technical Memorandum

The Consultant shall prepare a draft memorandum documenting the results and findings from this Task. The memorandum will include the final recommendation of the integrated solution, updated capital and O&M cost opinions, schedule, and potential for phasing. A draft memorandum will be submitted to CITY for review. The Consultant shall meet with CITY and CMAR to review relevant comments on the draft memorandum. Relevant comments will be incorporated into the memorandum before being finalized and submitted to CITY.

Task 6.1 to 6.4 Deliverables:

- Electronic copy of the draft Integration Solutions
- Electronic copy of the draft Evaluation Criteria and Ranking Process
- Electronic copy of the draft Technical memorandum
- One (1) electronic copy in pdf format of the final technical memorandum. Electronic meeting minutes from the two (2) workshops and one (1) review meeting

Task 7 - 60% Design

Upon acceptance of the preliminary design (30%), the Consultant shall prepare 60% design plans and an outline of technical specifications for each Phase (2 & 3) of work. A preliminary Opinion of Probable Construction Cost (OPCC) will be provided for Phase work only. The OPCC for Phases 2 and 3 work is provided by the CMAR.

The 60% plans shall include the following:

- Preparation of 60% force main design in plan and profile view (without call-outs) plans showing force main alignment, potential utility conflicts, and identifying open cut and directional bore areas.
- Confirmation of the location of air release valves.

- Coordination of any Roadway and Drainage restoration. No roadway or drainage design is included in this scope of work but shall be repaired in accordance with FDOT and City of Port St. Lucie Standards.
- Compliance with the CITY Water and Wastewater Standard Specifications and the CITY Water, Sewer and Reclaimed Water Design Guideline for water pipeline design.
- Attend up to three (3) meetings with the City and the CMAR representation during the 60% Design Phase.
- The drawings will be based on the AutoCad Civil 3D base files developed by the Consultant. The drawings will depict the proposed force main extension in plan and profile view at 1"=20' scale, in a single plan and profile view per sheet. It is estimated that approximately ten (10) plan sheets will be developed for Phase 1, forty-eight (48) sheets for Phase 2, and fifty-two (52) sheets for Phase 3 as outlined below:
- Phase 1 Work
 - C-1 Cover Sheet
 - C-2 Key Sheet
 - C-3 General Notes
 - C-4 – C-6 Single Plan and Profile Sheets
 - C7 - C-8 Meter and Control Valve Details
 - C9 & C-10 Standard City Details
- Phase 2 Work
 - C-1 Cover Sheet
 - C-2 Key Sheet
 - C-3 General Notes
 - C-4 – C37 Single Plans and Profile Sheets
 - C-38 – C-40 Directional Bores Profiles
 - C-41 Cross Sections (Canal Right of Way)
 - C-42 – C43 Rosser Blvd. MOT Schematic
 - C-44 – C-45 Special Details
 - C-46 – C-48 Standard City Details
- Phase 3 Work
 - C-1 Cover Sheet
 - C-2 Key Sheet
 - C-3 General Notes
 - C-4 – C-36 Single Plans and Profile Sheets
 - C-37 I95 Directional Bore Profile
 - C-38 – C39 Special Details
 - C-40 – C-42 Standard City Details

Task 8 (60% to 90% Design) Contract Documents for Each Phase (1, 2 and 3) of Work

Task 8.1 Preparation of Design Contract Documents

- The contract documents shall include detailed drawings, tables, charts, schedules, and other documentation as are typical for the CMAR development and construction of the proposed force main extension. The plan and profile sheets will be developed at a plan view scale of 1" = 20'. This project will utilize CITY's standard technical specifications and up-front contract documents.
- In the progress of the 90% design task, it is anticipated that two reviews will occur. For each review, Consultant shall address any non-route related CITY and CMAR review comments for final approval by CITY. Upon approval, the revised documents will establish the design basis for the Consultant to proceed with 100% design plans.

Task 8.2 Ninety Percent (90%) Design Documents

- At this time Consultant shall meet with CITY to review the ninety percent (90%) Design and discuss comments. The documents submitted at the ninety percent (90%) level will be essentially complete pending final QA/QC review. The CITY will complete their review within two (2) weeks.
- Attend up to two (2) meetings with the CITY and CMAR representative during the 90% Design Phase.

Task 8 Deliverables

- 90% Design Plans of Each Phase in PDF Format.
- Technical Specifications.

Task 9 - Permitting Assistance

Task 9.1 Florida Department of Transportation (Phase 3 Only)

- Consultant shall prepare and submit a permit application to Florida Department of Transportation (FDOT) for their review for the installation of the proposed force main under I-95 in the FDOT right of way(s). Consultant shall monitor the permit throughout the approval process. Consultant shall submit the permit application to FDOT for review and meet with FDOT (estimated to be no more than two (2) meetings) to discuss FDOT's review comments. Included in these two (2) meetings will be a Pre-Application meeting. Consultant shall provide responses to two (2) Requests for Additional Information (RAI) and submit to CITY for review.

Task 9.2 City of Port St. Lucie Excavation Permit (Phase 1, 2 & 3)

- The Consultant shall prepare and submit to the City the Engineering Department's Application for Excavation in the City Right of Way for each of the three (3) phases. Consultant shall prepare and submit the required documents to the City for approval which will include the preparation of a Stormwater Pollution Prevention Plan (SWPPP) that meets the minimum erosion and sedimentation control measures required by the CITY. Consultant shall submit the permit application to the CITY for review and meet with CITY staff (estimated to be one (1) meeting) to discuss review comments. Consultant shall provide responses to reasonable Request for Additional Information (RAI) and submit to CITY for review.

Task 9.3 FDEP Force Main Permit Application (Phase 1, 2 & 3)

- Permitting for force mains in Port St. Lucie greater than twelve (12) inches in diameter is administered by Florida Department of Environmental Protection (FDEP). Consultant shall prepare applications for permits to FDEP for each of the three (3) phases. Permit-related work shall include furnishing required reports, data, drawings, and other information requested; and assisting CITY in submitting the required permit applications. Consultant shall submit permit applications to CITY for review and meet with CITY once to discuss CITY's review comments. Consultant shall revise the applications as appropriate and submit to FDEP for review. Consultant shall also respond to reasonable Request for Additional Information (RAI) per permit application.

Consultant shall prepare and submit three (3) permit applications to the FDEP (one for each phase) for installation of the new force main for the 24-Inch Force Main Project per FDEP Form 62-604.300(8)(a) "Notification/Application for Constructing a Domestic Water/Wastewater Collection/Transmission System". Consultant shall submit the permit application to CITY for review and meet with CITY once. Consultant shall provide up to two (2) responses to Request for Additional Information (RAI). Consultant shall meet with representatives of the CITY to discuss the objectives of the overall project and to clarify the level of permitting needed for the permit.

Task 9 Deliverables

- Copies of each permit application submitted for each phase (1, 2 & 3)
- Copies of actual approved permits

Task 10 - Final Design (90% to 100% Design)

Task 10.1 Finalize the Construction Documents

Consultant shall prepare final design drawings for each phase (1, 2 & 3) showing notations for the installation of the proposed force main based on comments at the ninety percent (90%) design review. Consultant shall incorporate reasonable non-route related CITY, CMAR and Permitting comments for a final QA/QC of the Contract Drawings.

Task 10 Deliverables

- 100% Design plans of each phase in PDF format and in AutoCAD format.
- 100% Contract Document Specifications with CITY supplied up front documents

Task 11 - GMP Review and Negotiation Assistance

Consultant will attend a pre-bid meeting with the CMAR and CITY for the project and respond to requests for clarification during the bidding process. Consultant will review the GMP proposal received for the project and attend up to two (2) meetings with the CITY and CMAR to discuss our comments and to assist the CITY in negotiating the final GMP. A summary memorandum will be provided to the CITY describing the results of the bidding process and GMP review.

It has been assumed that the CITY or CMAR will prepare the "front end" bidding instructions and contract paperwork. Therefore, the preparation of these items is not included in this agreement.

Task 12 – Construction Phase Services (Phase 1)

The Consultant shall prepare Contract documents (plans and specification) for the CITY's use in the execution of the Contract with their on-call contractor. In addition, the Consultant shall perform the following:

- Prepare for and conduct the pre-construction meeting and distribute the meeting minutes.
- Respond to up to two (2) Requests for Additional Information (RAI) and clarifications for the construction of the project. Consultant will respond in a written format.
- 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 six (6) submittals, along with the CITY's Approved Product List will be reviewed. Consultant will strive to complete the reviews within five (5) working days of receipt.
- Review and recommend approval of up to one (1) contractor request 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 4.5 months of actual construction activities, it is assumed that a maximum of three (3) site visits per week will be made by the Consultant, at 8-hours per visit, or a total of 432 hours over the 4.5 months duration of active construction. 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 the 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 four (4) monthly progress meetings on-site.

- Consultant shall review and recommend approval of contractor monthly pay requests, up to six (6) pay requests.
- Review contractor provided record drawing information placed on Consultant provided AutoCAD files and offer review comments.
- Consultant shall develop a final punch list of contractors required contract items for completion of the work.
- Consultant shall prepare the Substantial Completion forms as required by the construction contract.
- Consultant shall prepare the appropriate regulatory completion/certification 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 and final pay application approvals.
- Review or prepare, as applicable, final contractor close out documents to include, final pay request, final balancing change order, contractor subcontractor release of liens and warranty items.

Task 13 – Construction Phase Services (Phases 2 and 3)- TO BE NEGOTIATED AT A LATER DATE (PRIOR TO CONSTRUCTION) OR THE CITY RESERVES THE RIGHT AND MAY EXERCISE ITS RIGHT TO REJECT KIMLEY HORN FOR PHASE 2 AND 3 AND HIRE A CONSULTANT FOR CONSTRUCTION SERVICES FOR PHASE 2 AND 3.

- Prior to construction, the Consultant and CMAR shall participate in a meeting with the public to explain the upcoming construction project and advise them of possible road detours. The CMAR will conduct a pre-construction meeting that will be attended by the Consultant. Other services shall include review of shop drawings, observing construction, reviewing schedules, observing testing procedures, and performing substantial and final close out services. Field observation services will be required as described below and as required to meet PSLUSD and other permitting agency certification requirements. The Consultant shall also respond to reasonable Requests for Information (RFI), issue design clarifications, prepare change order requests and review of the Contractor's Pay Requests. After the Consultant approves the Pay Request, it will be submitted to the CITY for payment. Final close-out services shall include punch-list development and final certifications. Detailed descriptions of the above scope activities follow below:
- Consultant will review and take appropriate action in respect to Shop Drawings, CITY's Approved Product List and Samples and other data which Contractor is required to submit, but only for general conformance with the Contract Documents. Such review and action will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders. It is assumed that approximately ten (10) submittal per phase, along with the CITY's Approved Product List will be reviewed. Consultant will strive to complete the reviews within five (5) working days of receipt.
- It is estimated that the construction timeframe for Phase 2 work is 11 months, with 8.5 months of actual construction and for Phase 3 work, the construction timeframe is 12 months, with 9.5 months of actual construction. Consultant will make site visits consisting of a maximum of three (3) visits per week, at 8-hours per visit or 816 hours for Phase 2 and 912 hours for Phase 3 to observe the progress of the work. Observations will not be exhaustive or extend to every aspect of Contractor's work, but will be limited to spot checking, and similar methods of general observation. Based on the site visits, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents and keep the CITY informed of the general progress of the work.
- Consultant will not supervise, direct, or control Contractor's work, and will not have authority to stop the Work or responsibility for the means, methods, techniques, equipment choice and use, schedules, or procedures of construction selected by Contractor, for safety programs incident to Contractor's work, or for failure of Contractor to comply with laws. Consultant does not guarantee Contractor's performance and has no responsibility for Contractor's failure to perform in accordance with the Contract Documents.

- Consultant may require special inspections or tests of Contractor's work and may receive and review certificates of inspections within Consultant's area of responsibility. Consultant's review will be solely to determine that the results indicate compliance with the Contract Documents and will not be an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the Contract Documents. Consultant is entitled to rely on the results of such tests.
- Consultant will respond to four (4) Requests for Additional Information (RAI) and clarifications for each phase of construction. Any orders authorizing variations from the Contract Documents will be made only by the CITY.
- Consultant will attend up to ten (10) monthly progress meetings on-site for Phase 2, and up to eleven (11) monthly progress meetings for Phase 3.
- Based on its observations and on review of applications for payment and supporting documentation, Consultant will recommend amounts that Contractor be paid. Recommendations will be based on Consultant's knowledge, information and belief, and will state whether in Consultant's opinion Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. Consultant's recommendations will not be a representation that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.
- Review contractor provided record drawing information (for Phases 2 and 3) placed on Consultant provided CAD files and offer review comments.
- When requested by Contractor and CITY, Consultant will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.
- Consultant shall prepare the appropriate regulatory completion/certification forms required by the issuing agency to close out the project. Such forms will only be executed by the Consultant if the work is found by the Consultant to be in general accordance with the construction document. This work will be completed for Phases 2 and 3.
- Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend final payment to Contractor.

Task 14 – Project Management Services

Project management includes activities related to initiating, planning, executing, controlling, and closing the Project. The Consultant will perform a technical review of deliverables, in accordance with standards, prior to transmitting them to the Client. Under this Task, the Consultant will be responsible for overall coordination and oversight of the project execution. The task includes monthly invoicing, project financials, enter subcontracts, and start the Project kick-off within 14 calendar days upon receiving the Notice to Proceed, along with coordinating the project progress meetings throughout the duration of the project.

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.
2. The project does not require any environmental studies.
3. The CITY will pay for all easement related costs and the recording of any easements through the St. Lucie County Courthouse.

4. Construction Administration Services for Task 13 will be negotiated at a future date once design and permitting is completed.
5. Design for Phase 1 will be designed separately.
6. Design for Phases 2, and 3 will be completed concurrently.

SECTION IV

TIME OF PERFORMANCE

The term of the contract is for approximately 18 months from the execution date of the Purchase Order. Unless indicated otherwise, the Consultant shall commence work within ten (10) days after receiving the fully executed contract.

Schedule of Delivery

Time periods to perform the Professional Services are estimated below:

| Task Name | Duration |
|--|-----------------|
| Task 1 – Team Kick-Off Meeting | TBD |
| Task 2 – Hydraulic Modeling | 60 Days |
| Task 3 – Specialty Subconsultant Services | - |
| Task 3.1 – Geotechnical Services | 165 Days (i) |
| Task 3.2 – Site Survey | 120 Days (ii) |
| Task 3.3 – Easements (as required) | 45 Days |
| Task 3.4 – Subsurface Survey | 175 Days (ii) |
| Task 4 – 30% Preliminary Design | - |
| i. Phase 1 | 60 Days |
| ii. Phase 2 | 120 Days |
| iii. Phase 3 | 160 Days |
| Task 5 – Preparation of CMAR documents w/ Task 5.1 thru Task 5.3 | 120 Days |
| Task 6 – Integrated Solution Ranking w/ Task 6.1 thru Task 6.4 | 120 Days |
| Task 7 – 60% Design | - |
| i. Phase 1 | N/A |
| ii. Phase 2 | 140 Days |
| iii. Phase 3 | 160 Days |
| Task 8 – 60% to 90% Design Contract Documents | - |
| i. Phase 1 | 45 Days |
| ii. Phase 2 | 90 Days |
| iii. Phase 3 | 100 Days |
| Task 8.2 – 90% Design Documents | - |
| i. Phase 1 | 20 Days |
| ii. Phase 2 | 20 Days |
| iii. Phase 3 | 20 Days |
| Task 9 – Permitting Assistance | - |
| Task 9.1 – FDOT (Phase 3 only) | 45 Days |
| Task 9.2 – PSL Excavation Permit | - |
| i. Phase 1 | 45 Days |
| ii. Phase 2 | 60 Days |
| iii. Phase 3 | 60 Days |
| Task 9.3 - FDEP Force Main Permit Application | - |
| i. Phase 1 | 45 Days |
| ii. Phase 2 | 60 Days |
| iii. Phase 3 | 60 Days |
| Task 10 – Final Design – 90% to 100% | - |

| | |
|---|-----------------------|
| i. Phase 1 | 30 Days |
| ii. Phase 2 | 75 Days |
| iii. Phase 3 | 75 Days |
| Task 11 – GMP Review/Negotiation Assistance | 60 Days (iii) |
| Task 12 – Construction Phase Services (Phase 1) | 180 Days |
| Task 13 – Construction Phase Services (Phase 2) | TBD |
| Task 13 – Construction Phase Services (Phase 3) | TBD |
| Task 14 – Project Management Services | During Task 1 thru 13 |

- (i) Commence after Kickoff Meeting (All Phases)
- (ii) Commence after 30% Design
- (iii) Excludes CITY Council approval process
- (*) Phase 2 30% design to commence upon completion of Phase 1 30% design
- (**) Phase 3 30% design to commence upon completion of Phase 2 30% design

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 Amount of **\$ 1,649,560.**

| Task Name | Total Cost |
|--|-------------------|
| Task 1 – Team Kick-Off Meeting | \$6,800 |
| Task 2 – Hydraulic Modeling | \$23,960 |
| Task 3 – Specialty Subconsultant Services | - |
| Task 3.1 – Geotechnical Services | \$23,660 |
| Task 3.2 – Site Survey | \$103,590 |
| Task 3.3 – Easements | \$8,160 |
| Task 3.4 – Subsurface Survey | \$177,990 |
| Task 4 – 30% Preliminary Design | |
| i. Phase 1 | \$48,880 |
| ii. Phase 2 | \$95,060 |
| iii. Phase 3 | \$86,300 |
| Task 5 – Preparation of CMAR documents (Phases 2 and 3) | - |
| Task 5.1 – Development of CMAR requirements | \$14,400 |
| Task 5.2 – CMAR Solicitation Documents | \$9,160 |
| Task 5.3 – Assistance with Proposal and Submittal Review | \$8,520 |
| Task 6 – Integrated Solution Ranking | - |
| Task 6.1 – Development of Integrated Solutions | \$9,760 |
| Task 6.2 – Decision Making Framework Development | \$10,950 |
| Task 6.3 – Integrated Solution Recommendation | \$4,880 |
| Task 6.4 – Technical Memorandum | \$8,400 |
| Task 7 – 60% Design | - |
| i. Phase 1 (No 60% submittal) | \$0 |
| ii. Phase 2 | \$107,650 |
| iii. Phase 3 | \$95,150 |
| Task 8 – 60% to 90% Design Contract Documents | - |

| | |
|--|--------------------|
| i. Phase 1 | \$51,360 |
| ii. Phase 2 | \$90,530 |
| iii. Phase 3 | \$77,140 |
| Task 8.2 – 90% Design Meeting Reviews/Comments | - |
| i. Phase 1 (Not Required) | \$0 |
| ii. Phase 2 | \$16,340 |
| iii. Phase 3 | \$16,340 |
| Task 9 – Permitting Assistance | - |
| Task 9.1 – FDOT (Phase 3 only) | \$9,560 |
| Task 9.2 – PSL Excavation Permit | |
| i. Phase 1 | \$7,800 |
| ii. Phase 2 | \$8,300 |
| iii. Phase 3 | \$8,300 |
| Task 9.3 – FDEP Force Main Permit Application | - |
| i. Phase 1 | \$11,600 |
| ii. Phase 2 | \$11,600 |
| iii. Phase 3 | \$11,600 |
| | |
| Task 10 – Final Design – 90% to 100% | - |
| i. Phase 1 | \$31,220 |
| ii. Phase 2 | \$65,090 |
| iii. Phase 3 | \$62,330 |
| Task 11 – GMP Review/Negotiation Assistance | \$13,200 |
| Task 12 – Construction Phase Services (Phase 1) | \$175,330 |
| Task 13 – Construction Phase Services (Phases 2 & 3) | - |
| i. Phase 2 | NOT INCLUDED |
| ii. Phase 3 | NOT INCLUDED |
| Task 14 – Project Management Services | \$138,650 |
| TOTAL, ALL TASKS | \$1,649,560 |

Exhibit “A”

Schedule of Hourly Billing Rates

| LINE ITEMS | NEGOTIATED RATES |
|--|------------------|
| Principal Engineer P.E. | \$270.00 |
| Senior Engineer P.E. | \$220.00 |
| Project Engineer P.E. | \$180.00 |
| Engineering Intern | \$120.00 |
| Senior Project Manager | \$240.00 |
| Project Manager | \$190.00 |
| Project Engineer/Manager/Design | \$145.00 |
| Senior CAD Designer | \$130.00 |
| Civil Design Technician/Senior Design Technician | \$110.00 |
| Assistant Project Designer | \$100.00 |
| CADD Operator/Technician | \$100.00 |
| Funding Administrator | \$190.00 |
| Senior Inspector | \$155.00 |
| Inspector 2 | \$110.00 |
| Inspector 1 | \$85.00 |

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. Retainage will be held at 5% from each progress payment.

As-builts and an updated construction schedule to reflect actual progress, weather days, and Holidays shall be provided monthly with each progress payment submittal. As-Builts will be required with each request for payment to include all items identified in the pay request. The monthly request for payment may be rejected until the revised schedule and as-builts has been reviewed and/or approved by the City.

Acceptance and Final Payment - Upon receipt of written notice that the work is ready for final inspection and acceptance, the City will promptly make such inspection. 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.

Before issuance of final payment, the Consultant shall submit evidence that all payrolls, material bills and other indebtedness connected with the work have been satisfied and paid in full. Final Release of Liens from all Consultants, subconsultants, suppliers for materials and sub-subconsultants are to be attached to the final invoice.

Before issuance of final payment, the Consultant shall submit a written Consent of Surety with the final invoice.

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 unless Consultant 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 Consultant'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 Consultant delivers to City a complete release of all claims arising out of the contract or receipts in full in lieu thereof, and an affidavit on 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: 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 contracts.

SECTION VII

WORK CHANGES

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

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, which may arise or may be alleged to have risen 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 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 # 20210081 Design of the Southport 24" Force Main to Glades Booster Pump Station shall be 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. CONSULTANT'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Consultant agrees to comply with all public records laws, specifically to:

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

1. The timeframes and classifications for records retention requirements must be in accordance with the [General Records Schedule GS1-SL for State and Local Government Agencies](#).
2. During the term of the contract, the Consultant shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Consultant's records under this 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

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

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

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

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

defective work and/or materials. All charges for replacement of defective materials and/or work shall be charged to the Consultant and may be deducted from any moneys due to the Consultant or his Surety.

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

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

SECTION XVI **SCRUTINIZED COMPANIES**

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

SECTION XXVII **CONTRACT ADMINISTRATION**

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

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

Integration of Terms - This Contract represents the entire contract between the parties. The parties shall not rely on any representation that may have been made by either party which is not included in the Contract.

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

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

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

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

Performance by Industry Standards - The Consultant represents and expressly warrants that all aspects of the Services provided or used by it shall, at a minimum, conform to the standards in the Consultant'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 Consultant shall be responsible for obtaining all permits, licenses, certifications, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform with the requirements of said legislation. The Consultant shall be required to complete a **W-9 Taxpayer Identification Form**, provided with the City's contract, and return it with the signed contract and insurance documents.

Supersedes Former Contracts or Agreements - Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the City and the Consultant for the Services provided in connection with the Contract.

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

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

SECTION XVIII **ADDITIONAL REQUIREMENTS**

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

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

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

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

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

SECTION XIX **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 XX **TERMINATION AND DELAYS**

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

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

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

- I. Immediately terminate the contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the contract and seek any legal or reasonable remedies; and/or

- III. Procure substitute services from another source and charge the difference between the contract and the substitute contract to the defaulting Consultant

Termination for Convenience. The City may, at any time, with or without cause, or for its convenience terminate all or a portion of the Contract upon twenty (20) days written notice to successful Consultant. Any such termination shall be accomplished by delivery in writing of a notice to Consultant. Following termination without cause, the Consultant shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the contract to the City up to the time of termination, pursuant to Florida law.

Termination for Non-Appropriation. The City is a governmental agency which relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City reasonably determines that it does not have funds to meet its obligations under the awarded contract, the City will have the right to terminate the contract, without penalty, on the last day of the fiscal period for which funds were legally available.

SECTION XXI

LAW, VENUE AND WAIVER OF JURY TRIAL

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

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

SECTION XXII

APPROPRIATION APPROVAL

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

SECTION XXIII

TRUTH-IN-NEGOTIATIONS

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

SECTION XXIV

CONFLICT OF INTEREST

The City hereby acknowledges that the Consultant may be performing professional services for private developers within the Treasure Coast area. Should a conflict of interest arise between providing services to the City and/or other Cities, the Consultant shall terminate its relationship with the other City 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 city 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, [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.

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 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 XXVII

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 XXVIII

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 XXIX

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 XXX

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 XXXI **ORDER OF PREFERENCE**

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

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

SECTION XXXII
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.

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

CITY OF PORT ST. LUCIE FLORIDA

CONSULTANT

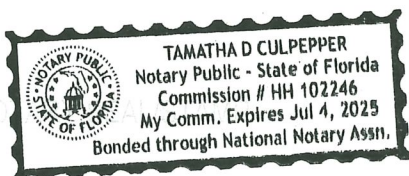
By: _____ By:
Purchasing Agent Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA)
) ss
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me by ☒ physical presence or ☐ online notarization, this 21ST day of March, 2022, by Kevin Scharen who is ☒ personally known to me, or who has ☐ produced the following identification:

Signature of Notary Public



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