

**CITY OF PORT ST. LUCIE  
CONTRACT #20240091**

This Contract, executed this \_\_\_\_\_ day of December 2024, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City", and CAPTEC ENGINEERING, INC., 301 NW Flagler Avenue, Stuart, Florida 34994, Telephone (772) 692-4344 Fax (772) 692-4341, hereinafter called "Engineer," "Consultant," or "Contractor." The City and Engineer may be referred to herein individually as a "party" or collectively as the "parties."

**SECTION I  
RECITALS**

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

**WHEREAS**, Engineer is licensed in the State of Florida; and

**WHEREAS**, the City wishes to contract with an engineer to provide Professional Engineering Design Services for the McCarty Ranch Water Quality Restoration Project Area 7A based on the terms and subject to the conditions contained herein; and

**WHEREAS**, Engineer is qualified, willing, and able to provide the Engineering Design Services for the McCarty Ranch Water Quality Restoration Project Area 7A specified on the terms and conditions set forth herein; and

**WHEREAS**, the City desires to enter into this Contract with Engineer 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 by Fed-EX, UPS, courier, or other similar and reliable carrier and addressed as follows, unless written notice of a change of address is given pursuant to the provisions of this Contract. Each such notice shall be deemed to have been provided:

- I. The same day, if sent via email.
- II. 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,
- III. 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.

Consultant: Joseph W. Capra, P.E.  
CAPTEC Engineering, Inc.  
301 NW Flagler Avenue  
Stuart, Florida 34994  
Telephone: 772-692-4344 Fax: 772-692-4341  
Email: [jcapra@gocaptec.com](mailto:jcapra@gocaptec.com)

City Contract Administrator: Robyn Holder, CPPB  
Procurement Management Division  
121 SW Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099  
772-281-9284 / FAX 772-871-7337  
E-mail: [rholder@cityofpsl.com](mailto:rholder@cityofpsl.com)

City Project Manager: Carlos Camacho, P.E.  
Utility Systems Department (USD)  
900 SE Ogden Lane  
Port St. Lucie, Florida 34983  
Telephone: 772-873-6419  
Email: [ccamacho@cityofpsl.com](mailto:ccamacho@cityofpsl.com)

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

This specific work that the Engineer has agreed to perform pursuant to E-RFP #20240091, **Professional Engineering Design Services for the McCarty Ranch Water Quality Restoration Project Area 7A** including all Attachments, all Addenda, and all other restrictions and requirements are incorporated by this reference.

#### **Background**

The City of Port St Lucie undertook a project to create a Water Farm to add to and supplement existing and proposed water retention, storage and diversion projects designed to reduce destructive discharges into the C-23 basin to the St Lucie Estuary and Indian River Lagoon. For the initial phase of the project, the City designed Above Ground Impoundments (AGI) known as Areas 1, 2, 3, 4, 5 & 6 and covering approximately 1950 acres. As of the first quarter of 2023, Areas 1, 2, 3 & 4 have been constructed and Areas 5 & 6 will soon be. City staff are in the process of filling, maintaining, and operating the completed areas as well as monitoring flows to assess the efficacy of the McCarty Ranch Water Quality Restoration farm.

As part of Phase 2 of the McCarty Ranch Water Quality Restoration farm the City would like to design two additional AGIs north of the existing AGIs within the McCarty Ranch property with a volume target of 3.49 billion gallons per year from 538 acres. The City studied different geometric arrangements of AGIs and would

like to start by issuing this RFQ to design a 234 acres AGI within the McCarty Ranch Preserve. The second AGI will be designed via a subsequent RFQ to be issued later.

### Intent

The intent of this Contract is to help the City continue the implementation of the McCarty Ranch Water Quality Restoration Project by designing the next AGI, Area 7A, within the McCarty Ranch Preserve property. This design will add 234 acres of storage at a depth adequate to reach the goal of 3.49 billion gallons per year (in combination with the next AGI, yet to be designed and not included in this RFQ). Although the City has studied various geometries for the proposed AGI, the Engineer will perform their own due diligence to provide their professional opinion on how to address the City's needs.

Engineering Services will include preliminary design, final detailed design, permitting, assistance with bidding and post design services, as well as help with administering the grants and/or funding sources associated with this project.

### Scope of Work:

#### **Task 1A: Preliminary Engineering Design Services (30% Plans)**

CONSULTANT will coordinate with the CLIENT to prepare and submit a 30% Conceptual Design Plan for the Minor Above Ground Impoundments (AGI) that will hold a maximum of 4' of water above the existing ground surface adjacent to the impoundment area. The design will also incorporate the excavation of the interior of the impoundment approximately 2'-3' below existing grade to maximize the potential 7 feet of storage volume within Area 7A.

The Task will also include an Alternative Analysis to determine the most effective route for the conveyance of water from the C-23 Canal to the Area 7A impoundment. This Task includes time for Public Meetings with both the Rangeline POA as well as the neighboring Treasure Coast Airpark.

The 30% Plans will include Clearing, Grubbing and Erosion Control Plans; Site Plans with updated locations of the access roads, emergency overflow structures, borrow areas and seepage canals; and a Pump Station Layout plan.

#### **Task 1B: Surveying Services for Water Quality Restoration Area 7A**

CONSULTANT will coordinate with Sub-Consultant Surveyor to provide the following services:

- **Horizontal Control**
  - Reconnoiter, recover and / or re-establish random subject parcel boundary corners.
  - Establish local primary horizontal control points for survey control.
  - Combine boundary geometry for production of overall topographic survey utilizing previous survey (performed by others).
- **Vertical Control**
  - Differential levels from published record vertical benchmarks to establish near or on site temporary vertical benchmarks for topography and aerial LiDAR – approximately 6 miles.
- **LiDar Control Points and Aerial Targets**
  - Establish 5 aerial targets with horizontal and vertical data for LiDAR observations. Establish photo-identifiable (PID) points at locations defined by the geospatial consultant.
- **Topographic Survey**
  - Observe and record random horizontal and vertical data of existing on-site conditions and

- ground elevations, adjacent off-site conditions of road, drainage structures, and above ground (visible) utility services in support of LiDAR observations.
  - Perform approximately 33 typical cross sections of primary drainage and irrigation canals/ditches.
  - As-built drainage pipes and structures within the project limits.
  - Perform topographic observations in obstructed areas (hammock areas, dense vegetation, wetlands, ponds – not visible by LiDAR).
  - Perform ground truthing shots throughout project area for accuracy check of LiDAR data.
- **Wetland / Environmental Survey Location (Price TBD pending Environmental work; Optional Services - Task 1C)**
    - Observe and record horizontal locations of wetland delineations as performed by Hobe Sound Environmental Consultants, Inc. (HSE). Include mapping of geometry of wetlands on topographic survey.
    - Environmentalist to provide wetland flag locations, point numbers and map for field observations. (Optional Services – Allowance)
  - **LJA Aerial LiDAR and Imagery**
    - Collect aerial LiDAR and imagery on an approx. 234-acre tract for the purposes of developing a topo surface and orthophotos. LiDAR and imagery data will be collected via fixed wing manned aircraft at minimum 20 ppsm, post-processed and delivered to the PM in requested format. The project site contains wetland and canals which typically yield low LiDAR returns. Any such areas observed during processing shall be marked as low confidence and sent to Sub-Consultant **Carter Associates, Inc.** for field verification to supplement the aerial data.
    - Planimetric data to include roads, buildings and other above ground features visible from the aerial data shall be collected.
    - The LiDAR data shall be produced to meet ASPRS Positional Accuracy Standards for Digital Geospatial data (2014) for a 10cm RMSEz Vertical Accuracy Class.
  - **Deliverables**
    - Prepare Topographic survey in AutoCAD Civil 3D utilizing LiDAR derived DTM surface with 1-foot contours, spot heights at 100-foot intervals, and planimetrics of visible manmade features, including supplemental topography and cross sections.
    - Prepare 40± plan view cross sections of primary drainage and irrigation canals/ditches.
    - Provide ortho-mosaic in ECW format.
    - Provide 2D Planimetric Features in CAD format.
    - Provide copies of Topographic Survey in PDF and AutoCAD Civil 3D format.

### **Task 1C: Environmental Services for Water Quality Restoration Area 7A**

CONSULTANT will coordinate with Environmental Sub-Consultant HSE

- **Jurisdictional Wetland Delineation**

The Environmental Sub-Consultant will be Hobe Sound Environmental (HSE) Consultants, Inc. The HSE biologists will delineate on-site wetlands at the above-referenced project site. All wetlands will be delineated according to the State of Florida, FAC 62-340 and the U.S. Army Corps of Engineers (COE) Wetland Delineation Manual, Technical Report Y-87-1. Wetland boundaries will be flagged with pink surveyor's tape marked "Wetland Delineation" and consecutively numbered. SUB-CONSULTANT will locate the delineated wetland boundary using a handheld GPS system and

overlay the boundary on a St. Lucie County aerial photograph for the Client's review. The Final Wetland Survey will be provided in Task 1B.

*Note: SFWMD and FDEP no longer conduct field reviews until they receive a completed ERP application. This proposal does not include any wetland verification with SFWMD, FDEP, ACOE, and / or City of Port St. Lucie.*

SUB-CONSULTANT will conduct a 100% gopher tortoise (*Gopherus polyphemus*) survey in the Area 7A project site, approximately 234-acres. Biologists will conduct a systematic survey for gopher tortoises in accordance with Florida Fish and Wildlife Conservation Commission (FFWCC) Guidelines. Mr. Weigt of HSE is a licensed gopher tortoise agent with FFWCC (License #GTA 09-00153-e). Biologists will record all observations of gopher tortoise species and features that may indicate species presence. Physical features may include, but are not limited to, burrows, tracks, and scat. All gopher tortoise burrows will be flagged, numbered, and identified as to activity. Each gopher tortoise burrow will be located with a handheld GPS unit. Gopher tortoise burrows will be located on an aerial photograph of the site. (GPS coordinates are approximate and are not a survey.)

SUB-CONSULTANT will provide a letter report to the Client noting all observed gopher tortoise burrows and their GPS points. The Report will include a location map for all on-site burrows.

- **Wildlife Assessment**

SUB-CONSULTANT will conduct a protected species survey on the referenced site. Biologists will conduct a preliminary systematic survey for the protected species in accordance with Florida Fish and Wildlife Conservation Commission (FFWCC) guidelines.

Biologists will record all observations of listed protected species and features that may indicate species presence. Physical features may include, but are not limited to, tree markings, burrows, tracks, nests, scat, and cavity trees.

- **Vegetation Survey (FFWCC Cooperative Land Cover (CLC))**

SUB-CONSULTANT will conduct a systematic survey of vegetation using the Cooperative Land Cover Classification System (CLC), September 2018, FFWCC. Biologists will base the vegetative community descriptions on field survey observations, NRCS soil maps and aerial photograph interpretation.

- **NRCS Soil Map**

Biologists will map all project soils. Soils will be mapped according to the Soil Survey of St. Lucie County Area, Florida, United States Department of Agriculture, Soil Conservation Service, (now NRCS).

- In the AGI Areas 1 – 5 within the McCarty Ranch **Extension** Project Areas, the removal of exotic vegetation within the AGI Areas was sufficient mitigation for Wetland Impacts. This Area 7A Project will be designed/ permitted based on this ACOE policy.

- **Wetland and Wildlife Assessment Report**

SUB-CONSULTANT will prepare a Wetland and Wildlife Assessment (WWA) report based on City of Port St. Lucie and St. Lucie County guidelines. The report shall include but is not limited to the following sections; Introduction, Property description with natural communities and land cover, State and Federal listed species discussion and Certification of the assessment by SUB-CONSULTANT. The report may be used to address Local, Federal and State environmental issues.

- **Optional/ Allowance Items that may be needed in this task include:**
  1. **Woodstork Survey**
  2. **Indigo Snake Survey**
  3. **Cara Cara Survey**
  4. **Cultural Resources Assessment**

#### **Task 1D: Geotechnical Services for Water Quality Restoration Area 7A**

CONSULTANT will coordinate with a Geotechnical Sub-Consultant to provide the following services.

- SUB-CONSULTANT will conduct eight (8) continuously sampled Standard Penetration Test (SPT) borings (ASTM D1586) to depths of about 25 feet (4 borings) and 50 feet (4 borings) below the existing ground surface. These borings will be performed to (a) obtain soil parameters for use in slope stability computations and (b) explore for the possible presence of semi-confining and / or confining layers.
- Complete twelve (12) hand auger borings (ASTM D1452) to depths of 5 to 7 feet below grade (or 1-2 feet into the ambient groundwater table, whichever comes first).
- Following (or possible concurrently with) the completion of the SPT boring program, two (2) temporary well clusters will be installed, each with up to 3 temporary 2-inch diameter PVC wells screened at different elevations depending on the encountered soil conditions. These wells will be utilized for stabilized groundwater level determinations, as well as for field soil permeability testing so as to explore the permeability of the subsoils at select levels. It is anticipated that the wells will be installed to depths ranging from 5 to 30 feet, depending on encountered soil conditions.
- Obtain samples for a suitable laboratory testing program to aid in the determination of prudent engineering properties of the soils for use in the slope stability analysis.

The proposed field work will be completed using truck-mounted drill rig(s) in addition to hand-carried equipment and support trucks. It is assumed in this proposal that access to such equipment and vehicles is readily available.

- **Optional/ Allowance Items that may be needed in this task include:**
  1. **Ground Water Flow Monitoring/ Modeling**
  2. **Water Quality Testing**
  3. **Seepage Analysis/ Investigation**
  4. **Copper Analysis/ Investigation**

#### **Task 2: Design Development Engineering Services (60% Plans)**

CONSULTANT will coordinate with the Sub-Consultants and CLIENT to prepare and submit 60% Plans for a Minor Above Ground Impoundments (AGI) that will hold a maximum of 4' of water above the existing ground surface (7 feet total depth). The plans will note items such as anticipated pumped volume, based upon the updated evapotranspiration information received with the geotechnical information. The Plans will be based on previous approval of the Preliminary 30% Plans.

The plans will utilize LIDAR data received from the Survey SUB-CONSULTANT, with surveyed elevation information incorporated to verify the accuracy of the LIDAR. The plans will include Clearing, Grubbing and Erosion Control Plans; Site Plans with updated locations of the access roads, emergency overflow structures, borrow areas and seepage canals; Sections along the proposed berms; and Pump Station Layout plan. The structural design previously provided for the Phase 1 Area 3 Pump Station deck located in the McCarty Ranch Extension Area will be utilized for the Area 7A Pump Station deck, with foundation recommendations provided by the Geotechnical Sub-Consultant. CONSULTANT will coordinate with CLIENT regarding pump selection. These services will include the completion of the plans in sufficient detail for submittal to the South Florida Water Management District to obtain a Construction Environmental Resources Permit (ERP) for Area 7A.

### **Task 3: Permitting Services**

Upon approval of 60% Construction Plans by the CLIENT, CONSULTANT will submit the application for an Environmental Resource Construction Permit to the South Florida Water Management District to permit the minor Above Ground Impoundments (AGI) within Area 7A.

This will include coordination with SFWMD ERP Staff and CLIENT for approval of the permit modification and includes required responses to Requests for Additional Information.

CONSULTANT will also submit a Conceptual Permit for the Future Area 7B. The Area 7B Concept layout will be included in the Area 7A Construction Plans and information pertaining to the Future Area 7B will be included in the Drainage Report submitted for the construction of Area 7A.

In addition to the SFWMD ERP, CONSULTANT shall coordinate with the Army Corps of Engineers to modify the existing ACOE Permit to include the Area 7A as well as remove Special Condition 11 located in the Areas 1 – 5 AGI ACOE Permits, which has been discussed with City Staff and ACOE Staff and is no longer necessary.

This task does not include services relative to negotiation of this area for a Dispersed Water Management Contract (DWMC) or Grants with the SFWMD for reimbursement of construction costs or Operating and Management costs. CONSULTANT may provide grant services for the City as needed in Task 6.

- **Optional Services (Allowance): In the past AGI 1-5, the SFWMD and ACOE requested additional information relative to mitigation/ resolution to species impacts.**

### **Task 4: Final Engineering and Bidding Services (90% & 100% Plans)**

CONSULTANT will finalize the permitted plans and label 90% Plans upon completion of review of plans by the City of Port St. Lucie. CONSULTANT will complete the bid quantities, and cost estimate for CLIENT'S bidding purposes, as well as the Technical Specifications Package for City review. CONSULTANT will submit the 90% Plans and Bid Documents for Final Review by the City to provide comments.

Upon approval of the 90% Construction Plans and Bid Documents by CLIENT, CONSULTANT will incorporate any final comments received by the City and complete the 100% (Bid Set) Construction Plans, Technical Specifications, Bid Quantities, and Engineer's Estimate of Probable Cost. CONSULTANT will attend the pre-bid meeting and answer the requests for information from the bidding Contractors. Upon selection of a Contractor, CONSULTANT will complete the "Approved for Construction" (AFC) Plans.

CONSULTANT will provide bidding assistance to CLIENT to include:

- Prepare Bid Plan sets for distribution to CLIENT'S Bidders
- Provide Technical Specifications for the proposed improvements
- Assist the City of Port St. Lucie in reviewing bids received from interested parties.
- Assist the City of Port St. Lucie in selecting a Contractor

#### **Task 5: Post Design Services**

The CONSULTANT will answer questions about the AFC Plans / attend the preconstruction meeting and the progress meetings, as needed, resolve design issues identified in the field during construction. The fee provided for this task is estimated and may need to be increased based on the amount of field assistance requested during construction.

#### **Task 6: Grant Assistance**

The CONSULTANT will provide assistance on grant submittals as requested by the City Staff. This task is provided as an optional service with an allowance.

#### **Deliverables**

30% Preliminary Design Package in 11x17 PDF, electronically sent to the City Project Manager.

60% Design Package in 11x17 PDF, electronically sent to the City Project Manager, to include Geotechnical and Site Survey information.

90% Permit Design Package in 11x17 PDF, electronically sent to the City Project Manager, to include all comments from the permitting agencies. This package will additionally include the Engineer's Opinion of Probable Cost (EOPC), Technical Specifications Package, Measure and Payments Package.

100% of Final Design Package in 11x17 PDF and CADD, electronically sent to the City Project Manager, to include revisions made resulting from comments to all the components of the 90% Design Package.

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

The Contract Period start date will be \_\_\_\_\_ and will terminate two hundred and seventy (270) calendar days thereafter on \_\_\_\_\_. The Consultant will be required to commence work under this Contract within ten (10) calendar days after the start date identified in this Contract. In the event all work required in the bid specifications has not been completed by the specified date, the Consultant agrees to provide work as authorized by the Project Manager until all work specified in the bid specifications has been rendered and accepted by the City.



<b>Task – Description</b>	<b>Time of Performance</b>
Task 1A – Preliminary Engineering	60 days from NTP
Task 1B – Surveying Services	90 days from NTP
Task 1C – Environmental Services	90 days from NTP
Task 1D – Geotechnical Services	90 days from NTP
Task 2 – Design Development Engineering Services	60 days from Completion of Task 1
Task 3 – Permitting Services	60 days from Completion of Task 2
Task 4 – Final Engineering and Bidding Services	30 days from Completion of Task 3
Task 5 – Post Design Services	As needed
Task 6 – Grant Assistance	As needed

Written requests shall be submitted to the Project Manager for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Consultant feels he has no control. Requests for time extensions shall be submitted immediately, but in no event, more than two (2) weeks upon occurrence of conditions, which, in the opinion of the Consultant, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Consultant's control.

**SECTION V**  
**RENEWAL OPTION**

No option to renew.

**SECTION VI**  
**COMPENSATION**

The total amount to be paid by the City to the Consultant is on a per unit price basis listed on Schedule "A" for a total amount of **\$719,800.00** . Payments will be disbursed in the following manner:

	<b>Base Fees</b>	<b>Optional Services (Allowance)</b>
TASK 1A: Preliminary Engineering Services.....	\$ 71,800.00	
TASK 1B: Surveying Services.....	\$ 82,000.00	
TASK 1C: Environmental Services.....	\$ 40,000.00	\$105,000.00
TASK 1D: Geotechnical Services.....	\$ 56,000.00	\$ 65,000.00
TASK 2: Design Development Engineering.....	\$ 50,000.00	
TASK 3: Permitting Services.....	\$ 65,000.00	\$ 55,000.00
TASK 4: Final Engineering & Bidding Services...	\$ 55,000.00	
TASK 5: Post Design Services.....	\$ 42,000.00	
TASK 6: Grant Assistance (Allowance only)		\$ 33,000.00
	<b>TOTAL \$ 461,800.00</b>	<b>\$258,000.00</b>
	<b>GRAND TOTAL</b>	<b>\$719,800.00</b>

**Reimbursables:** The City is responsible for paying Permit Fees directly.

**The Optional Services Allowances** are based on prior work completed in the McCarty Ranch Areas 1 -5. These services will only be completed if authorized in writing by the City of PSL.

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

**Progress Payments** – Invoices for services shall be submitted once per month, by the tenth (10<sup>th</sup>) 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 and is approved by the Project Manager is required under Section XVI of the Contract.

No payment for projects involving improvements to real property shall be due until the 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 the Project Manager for this Contract.

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 thirty (30) calendar days after the due date at the rate of one (1) percent per month on the unpaid balance.

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

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

The City reserves the right to order work changes in the nature of additions, deletions, or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the Contract price and time for completion. Any and all changes must be authorized by a written change order signed by the City's Purchasing Agent or his designee as representing the City. Work shall be changed and the Contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the Contract price resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change. Any dispute concerning work changes which is not resolved by mutual agreement shall be decided by the City Manager who shall reduce the decision to writing. The decision of the City Manager shall be final and conclusive.

## **SECTION VIII** **CONFORMANCE WITH PROPOSAL**

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Consultant pursuant to the Solicitation and Specifications on file in the Procurement Management Division 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, defend, and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of Consultant, agents, laborers, subconsultants or other personnel entity acting under Consultant control in connection with the Consultant's performance of services under this Contract. 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 agreement 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 employees of Consultant regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Consultant shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Consultant on the work. This indemnification shall survive the termination of this Contract.

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

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

## **SECTION XI** **INSURANCE**

The Consultant shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by the 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, and/or any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

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

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

- Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary 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, Employers' Liability, and Professional Liability Insurance, Certificates of Insurance and policies shall clearly state that coverage required by the Contract has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents, and employees as Additional Insured for Commercial General Liability and Business Auto Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read: **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and shall include Contract #20240091 – Professional Engineering Design Services for the McCarty Ranch Water Quality Restoration Project Area 7A."** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Consultant shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

- Business 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 is not obligated, 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, Consultant warrants that 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 the policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

6. Waiver of Subrogation: By entering into this Contract, the Consultant agrees to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss contract to waive subrogation without an endorsement, then 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.
7. 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 reserves the right, but is not obligated, to review and request a copy of the Consultant's most recent annual report or audited financial statement.

It shall be the responsibility of the Consultant to ensure that all independent consultants and/or subconsultants 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 the Consultant, any independent consultants and/or any subconsultants maintain higher limits than the minimums listed above, the City requires and shall be entitled to coverage for the higher limits maintained by the 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 is not obligated, to review, modify, reject, or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of the 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 subconsultant, supplier of materials, laborer, or other person or entity 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. Consultant and any subconsultants shall comply with section 119.0701, Florida Statutes. The Consultant and any subconsultants 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 Article I, section 24(a), Florida Constitution, and section 119.07(1)(a), Florida Statutes. Pursuant to section 119.10(2)(a), Florida Statutes, 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 sections 775.082 and 775.083, Florida Statutes.

### **RECORDS**

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Consultant shall comply with Florida's Public Records Law. CONSULTANT'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to section 119.0701, Florida Statutes:

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



## **TRADE SECRETS**

Any material submitted to the City that Contractor contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including chapter 119, Florida Statutes) ("Trade Secret Materials"), must be separately submitted and conspicuously labeled: "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, simultaneous with the submission of any Trade Secret Materials, the Contractor shall provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under section 688.002, Florida Statutes, and stating the factual basis to support the attestation. If a third party submits a request to the City of records designated by the Contract as Trade Secret Materials, the City shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by the Contractor. Contractor shall indemnify and defend the City, its employees, agents, assigns, successors, and subcontractors from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorney's fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

## **SECTION XV** **E-VERIFY**

In accordance with section 448.095, Florida Statutes, the Consultant agrees to comply with the statute, including:

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

## **SECTION XVI** **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 VI. If upon such inspection the Project Manager is not satisfied, he shall as promptly as practicable inform the parties hereto of the specific respects in which his findings are not favorable. 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 his 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 XVII** **SCRUTINIZED COMPANIES**

By entering into this Contract with the City, Consultant certifies that it and those related entities of Consultant, as defined by Florida law, are not on the Scrutinized Companies that Boycott Israel List, created pursuant to § 215.4725, Florida Statutes, and are not engaged in a boycott of Israel. The City may terminate this Contract if Consultant or any of those related entities of Consultant, as defined by Florida law, are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the City reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the City determine that the conditions set forth in § 287.135(4), Florida Statutes, are met.

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

**Joint Venture** - Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership or 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.

**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.

**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 express prior written consent of the City.

**Waiver** - Except as specifically provided for in a waiver signed by duly authorized representatives of the City and the 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 XIX** **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 himself in an unacceptable manner shall be removed from the project at the request of the City Manager.

**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 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.

## **SECTION XX** **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. If Consultant sells all or a majority of its shares, merges with, or otherwise is acquired by or unifies with a third party, it shall notify the

City within ten (10) days. If after such notice, the City determines in its sole discretion, it may terminate the Contract, without penalty.

## **SECTION XXI** **TERMINATION**

**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. Any such charge, in the City's option, may be invoiced to Consultant or deducted from sums due to the Consultant. Deductions thus made will not excuse the Consultant from other penalties and conditions contained in the Contract.

**Termination for Convenience** - The City may, at any time, with or without cause, or for its convenience, terminate all or a portion of the Contract upon thirty (30) days written notice to 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 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 XXII**  
**LAW, VENUE, AND WAIVER OF JURY TRIAL**

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

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

**SECTION 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 City determines the Contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

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

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

**SECTION XXV**  
**PROHIBITION AGAINST CONTINGENT FEES**

The Consultant warrants that he 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 XXVI**  
**ATTORNEY'S FEES**

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

**SECTION XXVII**  
**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 XXVIII**  
**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 XXIX**  
**SEVERABILITY**

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

**SECTION XXX**  
**AUDITS**

The Consultant shall establish and maintain a reasonable accounting system that enables the City to readily identify the Consultant's assets, expenses, costs of goods, and use of funds throughout the term of the Contract for a period of at least seven (7) years following the date of final payment or completion of any required audit, whichever is later. Records shall include, but are not limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The Consultant shall permit the City's authorized auditor or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized

representative of the United States government, to access and examine, audit, excerpt and to make copies of all books, documents, papers, electronic or optically stored and created records or other records relating or pertaining to this Contract kept by or under the control of the Consultant, including, but not limited to, those kept by the Consultant, its employees, agents, assigns, successors, and subconsultants. Such records shall be made available to the City during normal business hours at the Consultant's office or place of business. The Consultant shall not impose a charge for audit or examination of the Consultant's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Consultant for the cost of the audit and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Consultant's invoices and/or records shall be made within a reasonable amount of time (not to exceed ninety (90) days) from presentation of the City's findings to the Consultant. Evidence of criminal conduct will be turned over to the proper authorities.

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

### **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 E-Bid (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 E-Bid.
- (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** **CONSTRUCTION**

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

The parties have participated jointly in the negotiation and drafting of this Contract and agree that both have been represented by counsel and/or had sufficient time to consult counsel, before entering into this Contract.



In the event an ambiguity, conflict, omission, or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the parties, and there shall be no presumption or burden of proof or persuasion based on which party drafted a provision of the Contract.

**SECTION XXXIII**  
**NON-EXCLUSIVITY**

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

**SECTION XXXIV**  
**FORCE MAJEURE**

Any deadline provided for in this Contract may be extended, as provided in this paragraph, if the deadline is not met because of one of the following conditions occurring with respect to that particular project or parcel: fire, strike, explosion, power blackout, earthquake, volcanic action, flood, war, civil disturbances, terrorist acts, hurricanes and acts of God. When one of the foregoing conditions interferes with Contract performance, then the party affected may be excused from performance on a day-for-day basis to the extent such party's obligations relate to the performance so interfered with; provided, the party so affected shall use reasonable efforts to remedy or remove such causes of non-performance. The party so affected shall not be entitled to any additional compensation by reason of any day-for-day extension hereunder.

**SECTION XXXV**  
**DISCRIMINATORY, CONVICTED, AND ANTITRUST VIOLATOR VENDOR LISTS**

Consultant certifies that neither it nor any of its affiliates, as defined in the statutes below, have been placed on the discriminatory vendor list under section 287.134, Florida Statutes; the convicted vendor list under section 287.133, Florida Statutes; or the antitrust violator vendor list under section 287.137, Florida Statutes. Absent certain conditions under these statutes, neither contractors nor their affiliates, as defined in the statutes, who have been placed on such lists may submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

**SECTION XXXVI**  
**COOPERATION WITH INSPECTOR GENERAL**

Pursuant to section 20.055, Florida Statutes, it is the duty of every state officer, employee, agency, special district, board, commission, consultant, and subconsultant to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Consultant understands and will comply with this statute.

## **SECTION XXXVII GRANT REQUIREMENTS**

Consultant acknowledges this project is funded, in whole or in part, by a grant agreement between the Florida Department of Environmental Protection (“the Department”) and the City, Grant Number LPA0369 (“the Grant”). Consultant acknowledges that payment under this Contract is contingent upon the availability of Grant funds and the eligibility of the work performed under this Contract under the Grant. Noncompliance with the Grant or failure to fully cooperate with the City in the performance of its duties as Grantee, shall constitute a breach of this Contract, for which City may withhold payment until compliance with the Grant is established.

Consultant further agrees to comply with all applicable requirements of the Grant, attached and fully incorporated herein including, but not limited to, the following list. Contractor acknowledges that the following list uses the term “Grantee” or “recipient,” which indicate the City’s requirements under the Grant Agreement, additionally however, shall also constitute provisions in which the Consultant must comply and assist City with compliance:

- I. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
  - a. Standard Grant Agreement
  - b. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
  - c. Attachment 1, Standard Terms and Conditions
  - d. The Exhibits in the order designated in the Standard Grant Agreement
- II. Documentation Required for Cost Reimbursement Grant Agreements and Match. If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:
  - a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
  - b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
  - c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the

Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under the Grant, if any, impose this requirement, in writing, on its subcontractors.

- i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
  - ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- III. Retainage. The following provisions apply if Department withholds retainage under the Grant Agreement:
  - a. The Department reserves the right to establish the amount and application of retainage on the work performed under the Grant Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
  - b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
  - c. No retainage shall be released or paid for incomplete work while the Grant Agreement is suspended.
  - d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under the Grant Agreement.
- IV. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for the purchase of equipment as part of the delivery of services.

V. Insurance

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of the Grant Agreement a condition of all contracts that are related to the Grant Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of the Grant Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage prior to performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

VI. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by the Grantee/subcontractor of unauthorized aliens a violation of Section 274 A(e) of the Immigration and Nationality Act. If Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Grant. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
  - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287. 017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
  - ii. Discriminatory Vendors. Any entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to

- provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or service to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
  - iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.
- VII. Compliance with Federal, State and Local Laws. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of the Grant Agreement. The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Grant Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of the Grant Agreement. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- VIII. Scrutinized Companies.
- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
  - b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is

found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Grant Agreement.

- c. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.
- IX. Project Photos. The Grantee must submit Exhibit G, Photo Release Form, with the first submission of deliverables and reports (Exhibit A and D) that include photos.
  - X. The Grantee shall maintain books, records, and documents directly pertinent to performance under the Grant Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Contract and for five (5) years following the completion date or termination of the Grant Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, the Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but shall not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to the Grant Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Grant Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).
  - XI. The Grantee understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
  - XII. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
  - XIII. The Department may, for cause, deny access to Department's secure information or any facility by the Grantee employee, subcontractor, or agent.
  - XIV. The Grantee will specifically disclose that the Grant Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations under the Grant Agreement.
  - XV. Insurance Required Coverage. At all times during the Grant Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Grant Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for the Grant Agreement may be required elsewhere in the Grant Agreement, however the minimum insurance requirements applicable to the Grant Agreement are:
    - i. Commercial General Liability Insurance.
      1. The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named

as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.

ii. Commercial Automobile Insurance.

1. If the Grantee's duties include the use of a commercial vehicle, the Contractor shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

- a. \$200,000/\$300,000 Automobile Liability for Company-Owned Vehicles, if applicable
- b. \$200,000/\$300,000 Hired and Non-owned Automobile Liability Coverage

iii. Workers' Compensation and Employer's Liability Coverage.

1. The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

XVI. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution. If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.

XVII. Documentary Evidence Requirement for Subcontractor(s). If any work associated with the Grant Agreement is completed by a subcontractor(s), the Grantee shall require that such subcontractor(s) submit documentary evidence (e.g., workshop agendas; meeting recordings) to the Grantee demonstrating that the subcontractor(s) has fully performed its Project obligation(s). The Grantee shall forward copies of all such documentary evidence to the Department with the Grantee's relevant deliverable(s), using the approved Project Timeline set forth in Attachment 3 to the Grant Agreement (Grant Work Plan).

XVIII. Invest in America. Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

a. Signage Requirements

i. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a "project funded by President Biden's Bipartisan Infrastructure Law" or "project funded by President Biden's Inflation Reduction Act" as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

1. The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at: <https://www.epa.gov/invest/investing-america-signage>.

- ii. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.
- XIX. Record Retention: The recipient shall retain sufficient records demonstrating compliance with the terms of the Grant for a period of five (5) years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designees, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designees, Chief Financial Officer, or Auditor General upon request for a period of three (3) years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.
- XX. Funding Source: With the exception of audiovisuals not intended for presentation to the general public that are produced either as research instruments or for documenting experimentation or findings (unless otherwise required under the special terms of the Grant), the Grantee agrees to include the Department's logo (which can be found at the Department's website at <http://floridadep.gov> or by contacting the Grant Manager for a copy) on all publications, printed reports, maps, audiovisuals (including videos, slides, and websites), and similar materials, as well as the following language: "This work was funded in part through a grant agreement from the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection Resilient Florida Program. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies." The next printed line must identify the month and year of the publication.

**SECTION XXXVIII**  
**ENTIRE AGREEMENT**

This Contract sets forth the entire agreement between Consultant and City with respect to the subject matter of this Contract. This Contract supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the parties. This Contract may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

*Balance of page left intentionally blank*



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

CITY OF PORT ST. LUCIE, FLORIDA

CARTEC ENGINEERING, INC.

By: \_\_\_\_\_

By: [Signature]

Purchasing Agent

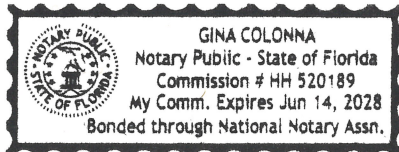
Authorized Representative

NOTARIZATION AS TO AUTHORIZED REPRESENTATIVE'S EXECUTION

STATE OF FLORIDA            )  
  ) ss  
COUNTY OF MARTIN        )

The foregoing instrument was acknowledged before me by [  ] physical presence or [  ] online notarization, this 21 day of DECEMBER, 2024, by JOSEPH CARTEC who is [  ] personally known to me, or who has [  ] produced the following identification:

\_\_\_\_\_



NOTARY SEAL/STAMP

[Signature]

Signature of Notary Public

GINA COLONNA

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