

**CITY OF PORT ST. LUCIE  
CONTRACT #20220062**

This contract executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City", and Ranger Construction Industries, Inc., hereinafter called "Contractor" or "Proposer".

**SECTION I  
RECITALS**

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

**WHEREAS**, Contractor and subcontractors are licensed in the State of Florida; and

**WHEREAS**, Contractor is prequalified with the Florida Department of Transportation (FDOT) in the following Work Classes:

- Flexible Paving
- Hot Plant -Mixed Bitum Courses

**WHEREAS**, the City wishes to contract with a Contractor to provide services described herein in accordance with the terms and conditions contained herein; and

**WHEREAS**, Contractor is qualified, willing, and able to provide the services specified in accordance with the terms and conditions set forth herein; and

**WHEREAS**, Contractor shall adhere to FDOT Standard Specifications for Road and Bridge Construction dated July 2022 and FY 2022-23 FDOT Standards Plans for Road Construction; and

**WHEREAS**, Contractor shall adhere to the City of Port St. Lucie's Engineering Standards for Land Development dated December 2020; and

**WHEREAS**, the City desires to enter into this Contract with Contractor to perform the eservices specified herein and, with a commission amount to be paid as agreed upon below.

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

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

**SECTION II**  
**NOTICES**

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

Contractor: Ranger Construction Industries, Inc.  
101 Sansbury's Way  
West Palm Beach, FL 3411  
(772) 464-6460  
[bill.yoder@rangerconstruction.com](mailto:bill.yoder@rangerconstruction.com)

City Contract Administrator: Anibal Barreto  
Procurement Agent I - Procurement Management Department  
121 SW Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099  
772-344-4229 / FAX 772-871-7337  
E-mail: [abarreto@cityofpsl.com](mailto:abarreto@cityofpsl.com)

City Project Manager: Thomas Salvador, CP  
Manager- Engineering, CIP, & Support Services  
City of Port St. Lucie  
121 SW Port Saint Lucie Blvd Port St. Lucie, FL 34984  
Telephone 772-871-5187  
Email: [TSalvador@cityofpsl.com](mailto:TSalvador@cityofpsl.com)

**SECTION III**

**DESCRIPTION OF SERVICES TO BE PROVIDED**

The specific work that the Contractor has agreed to perform pursuant to the E-Bid Specifications #20220062, Furnish and Install Asphaltic Concrete Paving 200+ Tons including all Attachments, Addenda, FDOT Specifications, and all other restrictions and requirements are incorporated by this reference. The scope of the work to completed under this contract shall adhere to rules and conditions described in Division II Construction Details and Division III Materials of the Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction dated July 2022 (FDOT Specifications) located at the following website address: <https://www.fdot.gov/programmanagement/implemented/specbooks>. and FY 2022-23 Standard Plans for Road and Bridge Construction (FDOT Standard Plans) located at the following website address: <https://www.fdot.gov/design/standardplans/sprbc.shtm>. In addition to the FDOT Specifications and FDOT Standard Plans referenced above, the contractor shall adhere to the City of Port St. Lucie's Engineering Standards for Land Development dated

December 2020 located at the following website address: <https://www.cityofpsl.com/Home/ShowDocument?id=9579> when the aforementioned FDOT Specifications or FDOT Standard Plans, do not address a specific item or condition. The scope of work to be provided shall include all services necessary to mill and resurface the existing pavement and adjacent shoulders to facilitate the placement of an asphaltic concrete surface in accordance with the FDOT Specifications, FDOT Standard Plans, or work order. Payment under the contractual pay items of the work order shall be inclusive of all services required and no additional payment shall be made.

The Contractor shall furnish all labor, materials, equipment, supervision, and transportation necessary for the proper execution of the work unless specifically noted otherwise in the work order. The Contractor shall perform all the work associated with the rehabilitation of the existing asphaltic concrete roadways and any incidental work required to facilitate the rehabilitation of the existing pavement as described in the work order. This contract shall be utilized to accomplish Citywide repaving as identified in the City's adopted ten (10) year repaving plan as well as any other projects that may be identified and funded through the ½ cent sales tax. The minimum anticipated paving quantity for any work order shall be 200+ tons. The contractor shall mill the existing pavement in accordance with FDOT Specification 327 Milling of Existing Asphalt Pavement. All asphalt millings shall be delivered to the City of Port St. Lucie yard located on SW Cameo Boulevard, north of SW Crosstown Parkway unless otherwise noted. The contractor shall only take ownership of milled material in accordance with FDOT specification 327-1 when identified in the work order. Payment for milling existing pavement surfaces shall be in accordance with FDOT Specification 327.

The contractor shall only use trackless tack coat on the FDOT approved products list. No separate payment shall be made for per specification 300-10 and 334-7 of the FDOT Specifications.

The contractor shall provide super pave asphalt concrete in accordance with FDOT Specifications 334 and be held to FDOT Specification 105, 320 and 330 as referenced in specification 334 as well as any Division II or III specification 334 referenced therein.

The contractor shall install temporary pavement markings (paint) and Temporary raised pavement markers (RPMs) in accordance with FDOT Specification 102-10 which references Section 706 Raised Pavement Markers and Adhesive and 710 Painted Pavement Markings of the FDOT Specification

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

The Contract Period start date will be October 1, 2022 and will terminate one (1) year thereafter on September 30, 2023. The Contractor will be required to commence work under this Contract within ten (10) calendar days after the start date identified in this Contract. In the event all work required in the bid specifications has not been completed by the specified date, the Contractor agrees to provide work as authorized by the Project Manager until all work specified in the bid specifications has been rendered and accepted by the City.

Written requests shall be submitted to the Project Manager for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Contractor feels 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 contractor, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the contractor's control.

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

The Contract period shall be for one (1) year with an option to renew for four (4) additional, one (1) year periods as appropriations allow in the budget. Renewals shall be based on mutual agreement between the City and the Contractor to provide the identical services required under this contract as outlined in the Scope of work and maintain the same terms and conditions, and cost structure as delineated herein. All renewals must be offered in writing ninety (60) days prior to the termination of this contract.

This contract allows for a price redetermination per FDOT Specification 9-2.1 at time of renewal only.

The contractor must request such an adjustment in writing no later than sixty (60) days prior to the renewal. Any increase will be effective on the contract renewal date.

Average Price indices are available at the following URL:  
<https://www.fdot.gov/construction/fuel-bit.shtm>

**SECTION VI**  
**COMPENSATION**

The total amount to be paid by the City to the Contractor is a fixed unit price as listed on Schedule "A" & Schedule "B". Payments will be disbursed in the following manner:

**SCHEDULE A**

Line #	ITEM DESCRIPTION	UNIT	Unit Price
	<b>Schedule A</b>		
	<b>Mobilization/Maintenance of Traffic</b>		
1	Purchase Order Total \$0.00 to \$100,000	LS	\$2,135.00
2	Purchase Order Total \$100,001 to \$200,000	LS	\$2,135.00
3	Purchase Order Total \$200,001 to \$500,000	LS	\$2,440.00

4	Purchase Order Total \$500,001 and UP	LS	\$4,265.00
<b>Additional Maintenance of Traffic</b>			
5	Maintenance of Traffic - Lane Closure on Multi Lane Roadway	Day	\$580.00
6	Maintenance of Traffic - Night Work - Single or Multi Lane Roadway	Night	\$1,155.00
<b>1" Asphalt Milling Service - Per FDOT 327</b>			
7	0 to 5,000 Square Yards	Sq Yard	\$27.60
8	5,001 to 10,000 Square Yards	Sq Yard	\$2.75
9	10,000 to 20,000 Square Yards	Sq Yard	\$2.25
10	20,001 Square Yards and UP	Sq Yard	\$2.15
<b>Superpave Asphaltic Concrete</b>			
11	Furnish & Install Superpave Asphaltic Concrete (SP-9.5, Traffic C) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$171.30

**Schedule B**

		<b>ITEM DESCRIPTION</b>	<b>UNIT</b>	<b>Unit Price</b>
	1.5"	<b>Asphalt Milling Service - Per FDOT 327</b>		
12	327-70-6	0 to 5,000 Square Yards	Sq Yard	\$2.60
13	327-70-6	5,001 to 10,000 Square Yards	Sq Yard	\$3.35
14	327-70-6	10,000 to 20,000 Square Yards	Sq Yard	\$2.50
15	327-70-6	20,001 Square Yards and UP	Sq Yard	\$2.90
	2"	<b>Asphalt Milling Service - Per FDOT 327</b>		
16	327-70-5	0 to 5,000 Square Yards	Sq Yard	\$141.90
17	327-70-5	5,001 to 10,000 Square Yards	Sq Yard	\$5.85
18	327-70-5	10,000 to 20,000 Square Yards	Sq Yard	\$5.30
19	327-70-5	20,001 Square Yards and UP	Sq Yard	\$6.00
	2.5"	<b>Asphalt Milling Service - Per FDOT 327</b>		
20	327-70-8	0 to 5,000 Square Yards	Sq Yard	\$154.50

21	327-70-8	5,001 to 10,000 Square Yards	Sq Yard	\$8.15
22	327-70-8	10,000 to 20,000 Square Yards	Sq Yard	\$7.65
23	327-70-8	20,001 Square Yards and UP	Sq Yard	\$9.00
	3"	<b>Asphalt Milling Service - Per FDOT 327</b>		
24	327-70-4	0 to 5,000 Square Yards	Sq Yard	\$167.10
25	327-70-4	5,001 to 10,000 Square Yards	Sq Yard	\$7.90
26	327-70-4	10,000 to 20,000 Square Yards	Sq Yard	\$7.40
27	327-70-4	20,001 Square Yards and UP	Sq Yard	\$9.90
		<b>Superpave Asphaltic Concrete per Section 334</b>		
28	334-153	Furnish & Install Superpave Asphaltic Concrete (SP-9.5, Traffic C, PG 76-22) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$204.30
29	334-157	Furnish & Install Superpave Asphaltic Concrete (SP-9.5, Traffic C, HP) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$240.60
30	334-113	Furnish & Install Superpave Asphaltic Concrete (SP-12.5, Traffic C) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$175.30
31	334-153	Furnish & Install Superpave Asphaltic Concrete (SP-12.5, Traffic C, PG 76-22) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$189.60
32	334-157	Furnish & Install Superpave Asphaltic Concrete (SP-12.5, Traffic C, HP) per Section 334, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$229.10
		<b>Asphaltic Concrete Friction Course per Section 337</b>		
33	337-7-82	Furnish & Install Asphaltic Concrete Friction Course (FC-9.5, Traffic C, PG 76-22) per Section 337, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$221.60
34	337-7-83	Furnish & Install Asphaltic Concrete Friction Course (FC-12.5, Traffic C, PG 76-22) per Section 337, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$211.00
35	337-7-92	Furnish & Install Asphaltic Concrete Friction Course (FC-9.5, Traffic C, HP) per Section 337, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$241.60
36	337-7-93	Furnish & Install Asphaltic Concrete Friction Course (FC-12.5, Traffic C, HP) per Section 337, FDOT Specs, Latest Revision (PO qty over 200 tons)	Ton	\$229.10
		<b>Miscellaneous</b>		
37		Base Preparation (Over Drainage Installations By Others)	SY	\$38.55

		<b>Painted Pavement Markings - Per FDOT 710</b>		
38	710 11101	Standard, White, Solid, 6"	LF	\$0.50
39	710 11102	Standard, White, Solid, 8"	LF	\$0.50
40	710 11123	Standard, White, Solid 12"	LF	\$0.80
41	710 11124	Standard, White, Solid 18"	LF	\$1.10
42	710 11125	Standard, White, Solid 24"	LF	\$1.85
43	710 11131	Standard, White, Skip, 10-30 or 3-9 Skip, 6"	LF	\$0.55
45	710 11141	Standard, White, 2-4 Dotted Guideline/ 6-10 Dotted Extension, 6"	LF	\$0.35
46	710 11160	Standard, White, Message or Symbol	SF	\$3.60
47	710 11170	Standard, White, Arrows, Single Arrow	EA	\$42.30
48	710 11170	Standard, White, Arrows, Multi Arrow	EA	\$18.10
49	710 11180	Standard, White, Yield Line	LF	\$2.45
50	710 11201	Standard, Yellow, Solid, 6"	LF	\$0.45
51	710 11202	Standard, Yellow, Solid, 8"	LF	\$0.45
52	710 11224	Standard, Yellow, Solid, 18"	LF	\$1.15
53	710 11231	Standard, Yellow, Skip, 10-30 or 3-9 Skip, 6"	LF	\$0.50
54	710 11241	Standard, Yellow, 2-4 Dotted Guideline/ 6-10 Dotted Extension, 6"	LF	\$0.35
		<b>Pavement Markings - Thermoplastic - Per FDOT 711</b>		
55	711 11101	Standard, White, Solid, 6"	LF	\$1.10
56	711 11102	Standard, White, Solid, 8"	LF	\$1.10
57	711 11123	Standard, White, Solid, 12"	LF	\$1.85
58	711 11124	Standard, White, Solid, 18"	LF	\$2.45
59	711 11125	Standard, White, Solid, 24"	LF	\$6.05
60	711 11131	Standard, White, Skip, 10-30 or 3-9 Skip, 6"	LF	\$1.10
61	711 11141	Standard, White, 2-4 Dotted Guideline/ 6-10 Dotted Extension, 6"	LF	\$0.85
62	711 11160	Standard, White, Message or Symbol	SF	\$6.05
63	711 11170	Standard, White, Arrows, Single Arrow	EA	\$96.70
64	711 11170	Standard, White, Arrows, Multi Arrow	EA	\$72.50
65	711 11180	Standard, White, Yield Line	LF	\$4.85
66	711 11201	Standard, Yellow, Solid, 6"	LF	\$1.10

67	711 11202	Standard, Yellow, Solid, 8"	LF	\$1.10
68	711 11224	Standard, Yellow, Solid, 18"	LF	\$2.45
69	711 11231	Standard, Yellow, Skip, 10-30 or 3-9 Skip, 6"	LF	\$1.10
70	711 11241	Standard, Yellow, 2-4 Dotted Guideline/ 6-10 Dotted Extension	LF	\$0.85
		<b>Raised Pavement Markers - Per FDOT 706</b>		
71	706 1 3	Raised Pavement Markers - Class B	EA	\$5.45

Payment schedule will be inserted at time of execution.

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

**Acceptance and Final Payment** - Upon receipt of written notice that the work is ready for final inspection and acceptance, the City will promptly make such inspection. When City finds the work acceptable under the terms of the Contract and the Contract is fully performed the entire balance will be due the Contractor and will be paid to the Contractor within twenty (20) business days. Such final payment to the Contractor shall be subject to the covenants in the Contract's Standard Specifications and any liquidated damages will be assessed against the Contractor at that time.

Before issuance of final payment, the Contractor shall submit evidence that all payrolls, material bills and other indebtedness connected with the work have been satisfied and paid in full. Final Release of Liens from all contractors, subcontractors, suppliers for materials and sub-subcontractors are to be attached to the final invoice. In lieu of Final Releases, the Contractor may submit a Consent of Surety with the final invoice. All manufacturer's warranty documents must be provided in the format requested by the City prior to final payment.

Invoices for services shall be submitted once a month, by the tenth (10th) day of each month, and payments shall be made within twenty (20) business days unless Contractor has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made within twenty (20) business days of receipt of Contractor's valid invoice, provided that the invoice is accompanied by adequate supporting documentation and is approved by the Project Manager as required under Section XV of the Contract.

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

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

All invoices are to be sent to the assigned Project Manager and [pwprojectinvoices@cityofpsl.com](mailto:pwprojectinvoices@cityofpsl.com) for



this Contract.

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

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

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

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

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

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

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

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Contractor pursuant to the Solicitation and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Contractor in relation to said proposal, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

#### **SECTION IX** **INDEMNIFICATION/HOLD HARMLESS**

Contractor agrees to indemnify, defend and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the

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

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

Nothing contained in this Contract shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in

**SECTION XI**  
**INSURANCE**

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

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

1. Workers' Compensation Insurance & Employer's Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation

endorsement shall be provided. Coverage shall apply on a primary basis. Should scope of work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

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

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

3. Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance and must include coverage for on-going and Completed Operations (should be ISO CG2037 & CG2010) under the General Liability policy. Products & Completed Operations coverage to be provided for a minimum of five (5) years from the date of possession by City or completion of contract. Coverage is to be written on an occurrence form basis. Coverage shall apply on a primary and non-contributory basis. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for mold, silica or respirable dust or bodily injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests' provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) 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 added to its Commercial General Liability policy and Business Auto policy. 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 and shall include Contract # 20220062- Furnish and Install Asphaltic Concrete Paving 200+ Tons at Select Locations shall be listed as additionally insured."** The Policies shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-

renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements including Completed Operations coverage shall be attached to the Certificate of Insurance.

4. Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary non-contributory basis.
5. Waiver of Subrogation: The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a Contract on a pre-loss basis.
6. Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and/subcontractors comply with the same insurance requirements as listed herein, including Products & Completed Operations coverage for a minimum of five (5) years from the date of possession by City or completion of contract. It will be the responsibility of the Contractor to obtain Certificates of Insurance from all contractors and subcontractors listing the City as an Additional Insured, without the language when required by written contract. If contractor, independent contractor or subcontractor maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by contractor/independent contractor/subcontractor.

The Contractor may satisfy the minimum limits required above for either Commercial

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

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

limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A:VII or better.

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

## **SECTION XII** **ACTS OF GOD**

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

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

## **SECTION XIII** **PERFORMANCE & PAYMENT BONDS**

The contractor shall furnish acceptable recorder Performance and Payment Bonds complying with the statutory requirements set forth in Section 255.05, Florida Statutes, in the amount of one hundred percent (100%) of the per project price. A Performance and Payment Bond is required on any contiguous projects that exceed \$200,000.00 in value. It is not the intent of the City to bond the estimated full value of this contract as there may

be times that projects with values less than \$200,000.00 will be identified. The City will execute the Contract, it being agreed and understood that the City will not be bound unless and until it has been duly authorized by the City Council and has been executed by the City Manager. A fully authorized Surety Licensed by the State of Florida shall execute the Performance and Payment Bond. The Performance and Payment Bond shall remain in full force a minimum of one (1) year after the work required has been completed and final acceptance by the City. Should the Surety become irresponsible during the time the Contract is in force, the City may require additional and sufficient sureties and the Contractor shall furnish same to the satisfaction of the City within ten (10) days after written notice to do so. In default thereof, the Contract may be suspended.

#### **SECTION XIV**

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

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any Sub-Contractor supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City.

The right to maintain such lien for any or all of the above parties is hereby expressly waived.

#### **SECTION XV**

#### **COMPLIANCE WITH LAWS**

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of [28 C.F.R. § 35.151](#) . Contractors and Sub-Contractor, shall comply with [§ 119.0701, Fla. Stat.](#) The Contractor and Sub-Contractor, are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from [Art. I, § 24\(a\), Fla. Const.](#) and § 119.07(1)(a), Fla. Stat. (2013). Pursuant to [§ 119.10\(2\)\(a\), Fla. Stat.](#), any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in [§ 775.082](#) and [§ 775.083 Fla. Stat.](#)

#### **RECORDS**

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. CONTRACTOR'S

RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES.  
Pursuant to Section 119.0701, F.S.

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

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

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

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

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

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the

Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

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

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

**Authority** - The Contractor is hereby informed that City inspectors are not authorized to alter, revoke, enlarge, or relax the provisions of these specifications. They are not authorized to approve or accept any portion of the completed work, or instructions contrary to the specifications. An inspector is



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

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

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

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

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

## **SECTION XVII** **SCRUTINIZED COMPANIES**

[Section 287.135, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790) , prohibits agencies from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran petroleum Energy Sector List, or do any business with Cuba or Syria. Both lists are created pursuant to [Section 215.473, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790)  
[https://www.sbafla.com/fsb/Portals/FSB/Content/Global Governance Mandates and Florida%20Statutes 2019 01 29.pdf?ver=2019-01-29-130006-790.](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/Global%20Governance%20Mandates%20and%20Florida%20Statutes%202019%2001%2029.pdf?ver=2019-01-29-130006-790)

## **SECTION XVIII** **CONTRACT ADMINISTRATION**

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

consent of the parties. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of the City and the Contractor.

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

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

**Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the vested parties. Each party shall be deemed to be an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon contract.

Neither Contractor nor any of Contractor's agents, employees, subcontractors or contractors shall become or be deemed to become agents, or employees of the City. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

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

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

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

**Performance by Industry Standards.** The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall, at a minimum, conform to the standards in the Contractor's industry. This requirement shall be in

addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence

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

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

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

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

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

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

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

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

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

**Implied Warranty of Merchantability** - It is understood that the implied warranty of merchantability and fitness for the specified purpose are not disclaimed notwithstanding any representation to the contrary.

**Warranty and Guarantee** - All products furnished by the Contractor shall be supplied with all warranties and guarantees of the manufacturer. All products must be warranted by the Contractor to be free of defects in workmanship and material for a period of not less than three hundred sixty-five (365) calendar days; said period to commence upon the date products are installed, or accepted by the City, whichever last occurs.

**Miscellaneous Testing** - The Contractor must agree to reimburse the City for any expenditure incurred by the City in the process of testing products supplied by the Contractor if said products prove to be defective and/or in other manners not in compliance with the specifications. Expenditures as defined therein shall include, but not limited to, the replacement value of products destroyed in testing, the cost paid by the City to testing laboratories and other entities utilized to provide tests, and the value of labor and materials expended by the City in the process of conducting the testing. Reimbursement of charges as specified herein shall not relieve the Contractor from other remedies.

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

the project at the request of the Project Manager.

**Dress Code** –All personnel in the employ of the Contractor(s) shall be appropriately attired. Employees engaged in the course of work shall wear company uniforms neat and clean in appearance, readily identifiable to all City employees and the public. All FDOT dress requirements apply. No tee shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Safety toed shoes shall be worn at all times. Company uniform may be T-shirts with the company name on the t-shirt. Contractor’s personnel must wear reflective vest at all times during the course of the work

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

**Discrepancies** - If, in the course of performing work resulting from an award under this specification, the Contractor finds any discrepancy between the area defined in these specifications and the actual area where work is being performed, the Contractor shall discontinue work on the subject area and inform the Contract Supervisor of the discrepancy. The Contractor shall thereafter proceed as authorized by the Contract Supervisor who will document any modification to these specifications that he authorized in writing as soon as possible.

**Permission to Use** - The Contractor(s) shall permit any portion of the new work, which is in suitable condition, to be used by the City for the purpose for which it was intended, provided such use does not hinder or make more expensive the work still to be done by the selected Contractor(s).

**Labor and Equipment** - The Contractor(s) shall utilize experienced personnel who are thoroughly capable of performing the work assigned to them. The Contractor(s) shall utilize proper equipment in good repair to perform assigned work. Failure on the part of the Contractor(s) to furnish such labor or equipment shall be sufficient cause for annulment of any award resulting from these specifications.

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

**Erosion and Sediment Control** – The Contractor is responsible for all erosion and sediment control in accordance with all local, State and Federal regulatory agency guidelines.

**Milling** – Milling operations shall be per FDOT Specification 327. Reference is made specifically to Section 327-3.1 which states that any milled surface shall be repaved no later than the day after the surface was milled. Additionally, the full width of asphalt shall be milled and resurfaced (typically 20'). Milling the entire roadway width may require the Contractor to remove grass and other debris that has encroached past the previous edge of pavement. Areas where grass or debris is not removed to the original edge of the pavement may be deemed “defective” requiring the Contractor to mill and replace at no cost to the City.

**Maintenance of Traffic** – The Contractor is responsible for all maintenance of traffic required for work associated with this contract. All MOT shall be in accordance with FDOT Standard Plans, latest edition including revisions. Maintenance of traffic required for paving operations, including lane closure, on two-lane roadways regardless of classification (i.e. local, collector, arterial). A pay item for maintenance of traffic for multi-lane roadways has been included to cover lane closures required on multi-lane roadways. This item will be paid per each day.

**Water Resources** – The Contractor shall not discharge without permit into waters of

**Storage and Stockpiling** – All storage or stockpiling of tools or materials (i.e., lumber, pilings, etc.) shall be limited to uplands. Excess lumber, scrap wood, trash, garbage or other types of debris shall be removed from the project site upon completion of the work.

**Sanitary Conditions** - The Contractor(s) shall be responsible to provide and maintain in a neat and sanitary condition such accommodations for the use of employees as may be necessary to comply with the regulations of the County Board of Health or other bodies having jurisdiction. Contractor(s) shall commit no public nuisance.

**Access to Work** - The Contractor(s) shall be responsible to permit the City, its inspectors, and other authorized representatives of the City to have access to all parts of the work, and to all materials intended for use in the work, and to all factories where such materials are manufactured, at all times. The above designated City personnel shall be permitted during said access to remove materials and make such inspections, as they deem necessary. Materials submitted for approval will be inspected and passed upon as promptly as practical as will work in process. However, failure to reject defective work at the time it is done and/or failure to reject materials shall in no way prevent rejection at any time prior to final acceptance of the work authorized by the City.

**Foreman or Superintendent and Workmen** - The Contractor(s) shall at all times during progress of the work, have on site a competent foreman or superintendent with authority to act for him and to cooperate with the City and/or his/her designee. The Contractor(s) must provide competent, careful and reliable workmen engaged on special work, or skilled work, such as concrete bases, pavements, or structures, or in any trade, with sufficient experience in such work to perform it properly and satisfactorily and to operate the equipment involved. Provide workmen that shall make due and proper effort to execute the work in the manner prescribed in the Contract Documents. It is prohibited as

a conflict of interest for a Contractor to subcontract with a Project Manager to perform Contractor Quality Control when the Project Manager is under contract with the City to perform work on any project described in the Contractor's contract with the City. Prior to approving a Project Manager for Contractor Quality Control, the Contractor shall submit to the City a certificate from the proposed Project Manager certifying that no conflict of interest exists.

**Adjustments** - The Contractor(s) shall be responsible to arrange with utility companies for any adjustment necessary. The Contractor(s) shall also be responsible to identify and avoid damage to all utilities (publicly and privately owned) within the area where work is being performed.

**Damages** - The Contractor(s) shall be responsible for the charge and care of all work from damage by the elements or from any cause whatsoever until the City, confirms in writing to the Contractor(s) that said work is, "complete" and/or "accepted".

**Damage to Property** - The Contractor shall preserve from damage all property along the line of work, or which is in the vicinity of or is in any way affected by the work, the removal, or destruction of which is not called for by the plans. This applies to public and private property, public and private utilities, trees, shrubs, crops, signs, monuments, mailboxes, vehicles, fences, guardrail, pipe and underground structures, public highways, etc. Whenever such property is damaged due to the activities of the Contractor, it shall be the Contractor's responsibility to coordinate repair with the affected party. Contact with the party shall occur immediately and the issue or damage shall be restored to a condition equal to or better than existing before such damage or injury was done by the Contractor, and at the Contractor expense. The Contractor's special attention is directed to protection of any geodetic monument, horizontal, vertical or property corner, located within the limits of construction.

National Geodetic Vertical Datum 1929 (NGVD '29) or North American Vertical Datum 1988 (NAVD '88) monuments shall be protected. If in danger of damage, notify:

Geodetic Information Center  
6001 Executive Boulevard  
Rockville, MD 20852  
Attn: Maintenance Center  
(301) 443-8319

City of Port St. Lucie vertical or horizontal datum shall also be protected. In case of damage or if relocation is needed, notify:

City of Port St. Lucie  
Public Works Department  
121 SW Port St. Lucie Boulevard  
Port St. Lucie, FL 34984-5099  
(772) 871-5175

**SECTION XX**  
**ASSIGNMENT**

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

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

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

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



connection with the contract, which is materially false, deceptive, incorrect or incomplete.

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

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

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

**Liquidated Damages for Delays.** Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the City the amount that is specified in FDOT Standard Specification 8-10.2 "Amount of Liquidated Damages" based on the total amount of the Executed Contract for each and every day that the completion of the Work is delayed beyond the time specified in this Contract for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay is caused by the Contractor. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time.

## **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 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**  
**APPROPRIATION APPROVAL**

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

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

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

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

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

Any language contained in the Proposer's response to the Solicitation purporting to require confidentiality of any portion of the Proposer's response to the Solicitation, except

to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the Solicitation constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. Proposals purporting to be subject to

copyright protection in full or in part will be rejected.

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

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

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

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

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

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

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

**SECTION XXIX**  
**POLICY OF NON-DISCRIMINATION**

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability,

political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

**SECTION XXX**  
**SEVERABILITY**

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

**SECTION XXXI**  
**AUDITS**

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

employees, agents, assigns, successors, and subcontractors. Such records shall be made available to the City during normal business hours at the Contractor's office or place of business. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the City reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Any adjustments and/or payments that must be made as a result of any

such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the City's findings to the Contractor. Evidence of criminal conduct will be turned over to the proper authorities.

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

**SECTION XXXII**  
**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 XXXIII**  
**ENTIRE AGREEMENT**

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

**SECTION XXXIV**  
**ORDER OF PREFERENCE**

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

- (i) First, by giving preference to the specific provisions of this Contract.
- (ii) Second, by giving preference to the specific provisions of the E-Bid.
- (iii) Third, by giving preference to the specific provisions of the Contractor's

Response, except that objections or amendments by a contractor that have not been explicitly accepted by the City in writing shall not be included in this Contract and shall be given no weight or consideration.

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