

MEMORANDUM

DATE: October 23, 2020

TO: ****ORIGINAL ****
City Clerk

FROM: Robyn Holder, CPPB
Procurement Management Department

SUBJECT: Record Retention

CONTRACT: #20200109

CONTRACT TITLE: Design Services for the Multi-Modal Plan/Trail – Phase 1

CONTRACTOR NAME: CAPTEC Engineering, Inc.

ADDRESS: 301 NW Flagler Avenue

CITY & STATE: Stuart, Florida 34994

COUNCIL APPROVED: N/A

CONTRACT AMOUNT - \$109,625.00

CONTRACT TERM: Upon Council approval of the Corridor selected for Phase 1 and terminates 180 calendar days thereafter, with the option no option to renew.

**CITY OF PORT SAINT LUCIE
CONTRACT #20200109**

This is Time and Expense CONTRACT, executed this 22 day of October, 2020 by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipality, duly organized under the laws of the State of Florida, hereinafter called "City" party of the first part, and CAPTEC ENGINEERING, INC., 301 NW Flagler Avenue Stuart, Florida 34994, hereinafter called "Engineer" "Consultant", party of the second part.

RECITALS

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

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

WHEREAS, the City wishes to contract for Design Services for the Multi-Modal Plan/Trail – Phase 1 as well as other tasks (Work) more specifically described in this Contract; and

WHEREAS, Engineer is qualified, willing and able to provide the Work on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this Contract with Engineer to perform the Work specified and in an amount agreed to 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 I
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 (with receipt confirmed), or fax and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

City Contract Administrator:

Robyn Holder, CPPB
Procurement Management Department
City of Port St. Lucie
121 SW Port St. Lucie, Blvd.
Port St. Lucie, FL. 34984
Telephone 772-344-4293 Fax 772-871-7337
Email: rholder@cityofpsl.com

City Project Manager:

Kelly Boatwright, Project Manager
City of Port St. Lucie Parks & Recreation Department
2195 SE Airoso Blvd.
Port St. Lucie, Florida 34984
Telephone: 772-871-5099 Fax: 772-871-5290
Email: kboatwright@cityofpsl.com

Engineer: CAPTEC Engineering, Inc.
Attn: Joseph W. Capra,
P.E. 301 NW Flagler
Avenue Stuart, FL 34994
Telephone 772-692-4344 Fax 772-692-4341
Email: jcapra@gocaptec.com

SECTION II DESCRIPTION OF SERVICES TO BE PROVIDED

The terms and conditions of Continuing Contract #20180094 for **Continuing Professional Design Services** shall apply for the Design Services for the Multi-Modal Plan/Trail – Phase 1 including all attachments, addenda and requirements are incorporated herein by this reference.

The City of Port St. Lucie (City) requires Professional Consultant and Design Engineering Services for the Multi-modal Plan/Trail Phase 1 Improvements. It is assumed that the proposed multiuse path/trail improvements are estimated for an approximate 1 to 2 mile long corridor and the requested services that will be provided are as follows:

Task 1A: Surveying Services

The CONSULTANT will coordinate with a Survey Sub-Consultant to provide the following:

Specific Scope of Services and Route TBD based on Selected Corridor Location

The design survey shall be conducted in conformance with and shall reference the North American Datum of 1983 (NAD83), Florida State Plane, East Zone (US ft.) Coordinate System for horizontal datum and the North American Vertical Datum of 1988 (NAVD88) for vertical datum. Survey shall be provided to the City in AutoCAD Civil 3D 2019 or later. The City will be responsible for providing any title work needed to clarify discrepancies encountered when researching the existing Rights-of-Way.

The Engineer will obtain a Sunshine One Call (SSOC) design ticket for the project (if applicable). All identified utility owners will be notified of the upcoming project and preliminary plans will be sent to them with requests for the owners to identify the location of their respective utilities.

Task 1A - Deliverable Date – 30 Calendar Days

Task 1B: Geotechnical Services

The CONSULTANT will coordinate with a Geotechnical Sub-Consultant to provide the following:

- Percolation rates for use if pervious pavement is proposed
- Soil Boring to determine underlying soils types within the limits of the proposed multiuse path/trail

Specific Scope of Services TBD based on Selected Corridor Location

Task 1B - Deliverable Date – 30 Calendar Days

Task 1C: Environmental Services

The CONSULTANT will coordinate with an Environmental Sub-Consultant to provide the following:

- Site inspection of multiuse path/trail corridor to identify any selective plants or species in the area
- Assistance during any potential permitting (ACOE, FDOT, ERP) needed for the project

Specific Scope of Services TBD based on Selected Corridor Location

Task 1C - Deliverable Date – 30 Calendar Days

Task 1D: Structural Services

The CONSULTANT will coordinate with a Structural Sub-Consultant to provide the following:

- Depending on the alignment and corridor selected, the design may require bridge/box culvert and/or boardwalk requirements

Specific Scope of Services TBD based on Selected Corridor Location

Task 1D - Deliverable Date – 45 Calendar Days after completion of Task 2A

Task 1E: Public Involvement Services

The CONSULTANT will coordinate with a Public Involvement Sub-Consultant (Barth Associates) to provide the following:

- Connectivity Analysis and Input for Preliminary Design
- Kick-off Meeting Attendance
- Opportunities and Constraints Assessment
- Public Involvement Meetings
- Site Visits
- Reviews of Conceptual (30%) and Design Development (60%) Plans (Labor manhours paid for under Task 2A & Task 2B)

Task 2A – Preliminary Engineering Services (30% Plans)

The CONSULTANT will provide preliminary engineering services and prepare conceptual plans (30%) for the multi-modal plan/trail that will include, but shall not be limited to the following:

The CONSULTANT shall meet with the City’s Project Manager within one week of the project award, to discuss the project details and objectives.

At this kick-off meeting, the CONSULTANT shall present and submit an aerial image that identifies the limits of the PROJECT and locations where Survey, Mapping and Connectivity data is required. Any additional data (e.g. Accessibility, GIS, Parks, Proposed Transit Routes, TOD Opportunities, Trail User Surveys, etc.) shall be provided by the CITY.

The conceptual plans shall include, at a minimum:

- Aerial showing and identifying adjacent roadways, existing right-of-way, nearby street names, and locations for potential connectivity and types of surfaces.
- Typical Sections, plan views, photographs, etc., as needed, to clearly illustrate and describe the proposed

- multi-use path/trail options.
- Preliminary construction cost estimate.

The CONSULTANT shall provide an electronic version and hard copy of the draft conceptual plans and visuals for discussion, review and markup at a meeting with the Project Manager. Based upon the comments from the Project Manager, the CONSULTANT shall complete the plans and visuals for presentation at the Public Information Meeting.

The CONSULTANT will prepare for and attend one (1) public meeting with the City and Stakeholders identified at the Project Kick-off meeting. Additionally, the CONSULTANT will attend a single one on one meeting with each Council Member to review draft conceptual plans prior to the Public Information Meeting.

CONSULTANT will provide exhibits and materials for each meeting as needed to present progress and gather feedback through public comments. The Public Involvement Sub-Consultant (Barth Associates) will assist with review of presentation materials and incorporating key design aspects gathered from the public outreach meeting.

Task 2A - Deliverable Date – 60 Days after NTP is Issued

Task 2B: Design Development Services (60% Plans)

The CONSULTANT will prepare 60% plans that will include the following:

The Engineer will incorporate public and key stakeholder input and 30% plan review comments to prepare design development 60% construction plans for the multi-modal plan/trail improvements that will include, but shall not be limited to the following sheets:

- Cover/Key Sheet
- Typical Section
- Multi-use Path/Trail Plan including Signing & Markings (Double Plan View)
- Traffic Control Plan/Crosswalks
- Details
- General Notes

The CONSULTANT will prepare for and attend one (1) public meeting with the City and Stakeholders identified at the Project Kick-off meeting.

CONSULTANT will provide exhibits and materials for each meeting as needed to present progress and gather feedback through public comments. The Public Involvement Sub-Consultant (Barth Associates) will assist with review of presentation materials and incorporating key design aspects gathered from the public outreach meeting.

Upon completion the Design Development (60%) Plans shall be submitted to the City of Port St. Lucie for review and comment. Any comments received will be addressed with the submittal of the Final Engineering (100%) Plans. The CONSULTANT shall also submit an engineer's probable cost estimate with the 60% plans. The City will be allowed fourteen (14) calendar days for review and comment.

The CONSULTANT shall send the design development plans (approximately 60%) to all utility owners for verification of their utility locations. Utility owners will also be instructed to finalize the design of any of their utilities needing to be adjusted for the construction of this project.

Task 2B - Deliverable Date – 30 Days after NTP and receipt of Task 2A City Review Comments

Task 2C: Final Engineering Services (100% Plans)

The CONSULTANT will prepare a final engineering (100%) plan set including, but not limited to the following sheets:

- Cover/Key Sheet
- Typical Section
- Multi-use Path/Trail Plan including Signing & Markings (Double Plan View)
- Traffic Control Plan/Crosswalks
- Stormwater Pollution Prevention Plan (SWPPP)
- Details
- General Notes

Special Provisions, Technical Special Provisions, and Supplemental Specifications shall be prepared by the CONSULTANT to be included in the City standard bid documents and shall be submitted with the final construction plan submittal to the City for review and comment. The additional provisions or specifications shall include all items needed for construction that are not covered in the construction plans, FDOT Design Standards, or FDOT Standard Specifications.

Any comments received will be addressed and incorporated into a Bid plan set. The CONSULTANT shall submit Bid plans, final cost estimate, utility coordination documentation, and any necessary permitting documentation for applicable permits.

Task 2C - Deliverable Date – 45 Days after receipt of Task 2B City Review Comments

Task 3: Permitting Services (Allowance)

The CONSULTANT will conduct the following services:

It is assumed that a permit from SFWMD may be required to be submitted for the construction of a multiuse path/trail. Depending on the selected location these services may be expanded to include ACOE permitting.

Additional permits may be required:

- FDOT
- St. Lucie County

Specific Scope of Services TBD based on Selected Corridor Location

Task 3 – Deliverable Date – 30 Days after receipt of Task 2B City Review Comments

Task 4A: Bidding Services ('Approved for Construction' Plans)

The CONSULTANT will attend the pre-bid meeting, answer questions regarding the Construction Plans or technical aspects of bid documents during the bid process, attend the pre-construction meeting and progress meetings, as needed, and resolve design issues identified in the field during construction. Upon receipt of bid documents, CONSULTANT will complete an 'Approved for Construction' set of plans to be attached to the contract documents to the Contractor.

Upon completion, the final construction plans shall be submitted to the City of Port St. Lucie for review and comment. Any comments received will be addressed and incorporated into an 'Approved for Construction' plan set. The CONSULTANT shall submit signed & sealed 'Approved for Construction' plans, final cost estimate, utility coordination documentation, and any necessary permitting documentation and any applicable permits.

Task 4A - Deliverable Date – To be prepared 30 Days after receipt of Task 2C City Comments

Task 4B: Post Design Services

The CONSULTANT will attend the pre-construction meeting, answer questions regarding the Construction Plans and attend progress meetings, as needed, and resolve design issues identified in the field during construction.

Task 4B - Deliverable Date – TBD

Deliverables

In addition to the deliverables to applicable permitting agencies, the Engineer shall supply the City the following:

- Three (3) hard copies of Preliminary Plans (30%), Design Development Plans (60%), Final Plans (100%) and 'Approved for Construction' Plans
- One (1) PDF copy of Preliminary, Design Development, Final and 'Approved for Construction' Plans (at each submittal)
- Four (4) sets of signed and sealed 'Approved for Construction' Plans
- One (1) AutoCAD file of the 'Approved for Construction' Plans (Civil 3D 2019 or later)
- One (1) copy of permit application submittals

**SECTION III
TIME OF PERFORMANCE**

Contract period shall begin upon Council approval of the Corridor selected for Phase 1 and terminate one hundred eighty (180) calendar days thereafter. In the event all work required in the proposal specifications has not been completed by the specified date, the Engineer agrees to provide work, at no additional cost to the City as authorized by the City Project Manager until all work specified in the proposal specifications has been rendered and approved by the City.

**SECTION IV
RENEWAL OPTION**

There are no renewals to this contract.

**SECTION V
COMPENSATION**

This is a Time and Expense Contract per the Fee Schedule Table below, with a Contract total of **\$109,625.00**. The City will not pay for out-of-pocket expenses including, but not limited to, office & utilities, sub-consultants fees or any reimbursable expense. There will be no additional amount paid for reimbursable expenses. All Lump Sum Amounts are "Not to Exceed" amounts. Engineer shall invoice the City for the amount of the indemnification payment and said invoice shall accompany the signed Contracts.

The Engineer 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.

Schedule "A"

	Days	Hours Per Task	Regular Hourly Rates	Sub-Consultant Fee	Project Costs
Task 1A: Surveying Services (Allowance)				\$10,000.00	\$10,000.00
Task 1B: Geotechnical Services (Allowance)				\$5,000.00	\$5,000.00
Task 1C: Environmental Services (Allowance)				\$10,000.00	\$10,000.00
Task 1D: Structural Engineering Services (Allowance)				\$7,500.00	\$7,500.00
Task 1E: Public Involvement Services (Allowance)				\$20,700.00	\$20,700.00
Task 2A: Preliminary Engineering Services (30%)	60 days from NTP			\$3,500.00	
Principle Engineer, PE		13	\$200.00		\$2,600.00
Senior Engineer, PE (QC)		4	\$180.00		\$720.00
Senior Project Manager, PE		25	\$155.00		\$3,875.00
Project Engineer, PE		24	\$120.00		\$2,880.00
Design Technician		32	\$100.00		\$3,200.00
Administrative Services (PC)		20	\$52.00		\$1,040.00
Task 2B: Design Development Services (60%)	30 days from receipt of City comments			\$3,500.00	
Principle Engineer, PE		4	\$200.00		\$800.00
Senior Engineer, PE (QC)		4	\$180.00		\$720.00
Senior Project Manager, PE		8	\$155.00		\$1,240.00
Project Engineer, PE		24	\$120.00		\$2,880.00
Design Technician		48	\$100.00		\$4,800.00
Administrative Services (PC)		20	\$52.00		\$1,040.00
Task 2C: Final Engineering Services (100%)	30 days from receipt of City comments				
Principle Engineer, PE		2	\$200.00		\$400.00
Senior Engineer, PE		4	\$180.00		\$720.00
Senior Project Manager, PE		10	\$155.00		\$1,550.00
Project Engineer, PE		12	\$120.00		\$1,440.00
Design Technician		25	\$100.00		\$2,500.00
Administrative Services (PC)		10	\$52.00		\$520.00

Task 3: Permitting Services	30 days from Task 2B review comments				
Principle Engineer, PE		0	\$200.00		\$0.00
Senior Engineer, PE (QC)	-	0	\$180.00		\$0.00
Senior Project Manager, PE		8	\$155.00		\$1,240.00
Project Engineer, PE		16	\$120.00		\$1,920.00
Design Technician		8	\$100.00		\$800.00
Administrative Services (PC)		20	\$52.00		\$1,040.00
Task 4A: Bidding Services/AFC Pans	30 days from receipt of City comments				
Principle Engineer, PE		2	\$200.00		\$400.00
Senior Engineer, PE (QC)	-	4	\$180.00		\$720.00
Senior Project Manager, PE		8	\$155.00		\$1,240.00
Project Engineer, PE		10	\$120.00		\$1,200.00
Design Technician		16	\$100.00		\$1,600.00
Administrative Services (PC)		20	\$52.00		\$1,040.00
Task 4B: Post Design Services	TBD				
Principal Engineer, PE		3	\$200.00		\$600.00
Senior Engineer, PE (QC)		3	\$180.00		\$540.00
Senior Project Manager, PE		8	\$155.00		\$1,240.00
Project Engineer, PE		20	\$120.00		\$2,400.00
Design Technician		0	\$100.00		\$0.00
Administrative Services (PC)		10	\$52.00		\$520.00
TOTAL					\$109,625.00

Hourly Rates for additional services may be utilized, as determined by the City. Hourly Rates, Lump Sum, and Fixed Fee amounts are to include all reimbursable expenditures, including travel, meals, copies and so forth.

Invoices for services shall be submitted by the 10th of the month, and payments shall be made within forty five (45) days unless Engineer has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made provided the submitted invoice is accompanied by adequate supporting documentation and is approved by the Project Manager.

Engineer VISA Payment Procedures

1. An account with Bank of America (BOA) will be established for the project. The account dollar limit will be established by the City's estimate of monthly expenses. The account will also have limits as per the Merchant Category Code (MCC). Reasonable total invoice amounts will also be established. The account will be entered with the proper expense codes. The Engineer will be provided this account number to process payments.
2. A purchase order to the Engineer for this project may not be issued.

3. The Engineer will send the Project Manager by the 1st of each month a detailed pay request listing employee title, hours of work, hourly rate and related tasks that are completed. Partial release of liens will be provided if subcontractors were used by Engineer.
4. The (PM) will audit to determine that work and materials that are being billed have been completed and installed as per contract specifications. The PM will verify the partial release of liens. The PM will sign documents that state the payment is correct and payment by the City is authorized.
5. The PM will email the approved pay request to the Contract Specialist, City's P-Card Administrator and the Engineer to proceed with placing the charge on the BOA specified account.
6. The Engineer may not place the charge on the account until contacted by the City giving approval. Under no circumstances will the account be used between the 1st and 5th of the month.
7. Invoices that are not approved by the PM will be returned to the Engineer with a detailed explanation.
8. Procurement Management Department will balance statement and issue all dispute items.
9. Procurement Management Department will produce summary sheet and send all documentation to Finance for payment.

All work compensated for under this Contract, including partial payments, shall become the property of the City of Port St. Lucie without restrictions or limitations. Work under this Contract shall include, but not be limited to, sketches, tracings, drawings, computations, details, design calculations, plan, electronic files and other related documents. The Engineer shall not be held liable for any reuse of the work and shall not be held liable for any modifications made to the work by others.

All invoices and correspondence relative to this Contract must contain the last 4 digits of the BOA account and Contract number.

A Visa Order Form or Purchase Order constitutes as the Notice to Proceed.

SECTION VI 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. All changes will be authorized by a written change order approved by the Procurement Department Director, or her designee. 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 at cost. 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 VII CONFORMANCE WITH PROPOSAL

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Engineer pursuant to the Request for Proposal and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Engineer 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.

**SECTION VIII
SOVERIEGN 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 IX
INDEMNIFICATION/ HOLD HARMLESS**

The Engineer agrees to indemnify, defend, and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligent act, recklessness, or intentional wrongful misconduct of the Engineer and persons employed or utilized by the Engineer in the performance of the construction contract. As consideration for this indemnity provision the Engineer shall be paid the sum of ten dollars (\$10.00), which will be added to the contract price, and paid prior to commencement of work. This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the City's sovereign immunity.

**SECTION X
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:

Design Services for the Multi-Modal Plan/Trail - Phase 1

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. Professional Liability Insurance: The Contractor shall agree to maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, City reserves the right, but not the obligation, to review and request a copy of Bidders most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, bidder warrants the retroactive date equals or precedes the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, bidder shall agree to purchase a SERP with a minimum reporting period not less than three (3) years.

4. Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance (should be ISO CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary. 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 interest's provision as provided under the standard ISO form separation of insurer's 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 #20200109– Design Services for the Multi-Modal Plan/Trail – Phase 1 shall be listed as additionally insured.**" The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) calendar day's 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. All independent contractors and subcontractors utilized in this project shall furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

5. 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 basis.

6. 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.

7. 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 Contractor's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements referenced above.

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

The City, by and through its Risk Management Department, reserves the right, but 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 XI

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 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 XII 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 subcontractors shall comply with § 119.0701, Fla. Stat. The Contractor and subcontractors are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from Art. I, § 24(a), Fla. Const. and § 119.07(1)(a), Fla. Stat. Pursuant to § 119.10(2)(a), Fla. Stat., any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in § 775.082 and § 775.083 Fla. Stat.

RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The 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. (*See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>*).
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

**SECTION XIII
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.

**SECTION XIV
ASSIGNMENT**

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

**SECTION XV
TERMINATION**

If the Consultant refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in this Contract, or as may be modified in accordance with this Contract, the City by written notice to the Consultant, may terminate Consultant's rights to proceed. On such termination, the City may take over the work and prosecute the same to completion, by contract or otherwise, and the Consultant and his sureties shall be liable, to the City for any additional cost incurred by it in its completion of the work.

The City may terminate this Contract with or without cause by giving the Consultant thirty (30) calendar days' notice in writing. Upon delivery of said notice, the Consultant shall discontinue all services in connection with the performance of this Contract and shall proceed to promptly cancel all related existing third party contracts. Termination of the Contract by the City pursuant to this paragraph shall terminate all of the City's obligations hereunder and no charges, penalties to other costs shall be due to the Consultant except work timely completed.

**SECTION XVI
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 pursuant 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 XVII
APPROPRIATION APPROVAL**

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

**SECTION XVIII
TRUTH-IN-NEGOTIATIONS**

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

**SECTION XIX
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 the City's, the Consultant shall terminate its relationship with the other the City to resolve the conflict of interest. The City Manager shall determine whether a conflict of interest exists. At the time of each Project Proposal the Consultant shall disclose all of its Treasure Coast the City's and related Scope of Work.

**SECTION XX
PROHIBITION AGAINST CONTINGENT FEES**

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

**SECTION XXI
ATTORNEY'S FEES**

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

**SECTION XXII
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 XXIII
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 XXIV
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.

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TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT
Contract #20200109

STATE OF FLORIDA §
COUNTY OF ST. LUCIE §

Before me, the undersigned authority, personally appeared affiant Joseph W. Capra who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive an agreement for professional services with the City of Port St. Lucie, St. Lucie County, Florida.

2. That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into an agreement with the City of Port St. Lucie, St. Lucie County, Florida to provide professional services for a project known as #20200109 Design Services for the Multi-Modal Plan/Trail – Phase 1.

3. That the undersigned firm has furnished the City of Port St. Lucie, St. Lucie County, Florida a detailed analysis of the cost of the professional services required for the project.

4. That the wage rate information and other factual unit cost, which the undersigned firm furnished, were accurate, complete and current at the time the undersigned firm and the City of Port St. Lucie entered into the agreement for professional services on the project.

5. That the agreement which the undersigned firm and the City of Port St. Lucie entered into on this job contained a provision that the original agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the City of Port St. Lucie determines the agreement price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit cost and that all such agreement adjustments shall be made within one (1) year following the end of the agreement.

FURTHER AFFIANT SAYETH NAUGHT

CAITEC Engineering, Inc.
Name of Firm

By: [Signature]
Authorized Representative

The foregoing instrument was acknowledged before me by JOSEPH CAPRA

who has produced _____ as identification or is personally known to me.

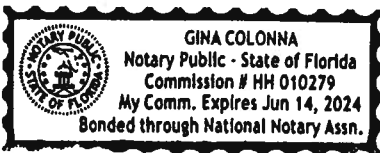
WITNESS my hand and official seal in the State of County last aforesaid this 22 day of OCTOBER, 2020.

(SEAL)

[Signature]
Signature

GINA COLONNA
Notary Name (typed or printed)

Title



IN WITNESS WHEREOF, the parties have executed this Contract at Port St. Lucie, Florida, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA

CAPTEC ENGINEERING, INC.,

By: [Signature]
City Purchasing Agent

By: [Signature]
Authorized Representative

State of: FLORIDA

County of: MARTIN

Before me personally appeared: JOSEPH CAPRA
(Please print)

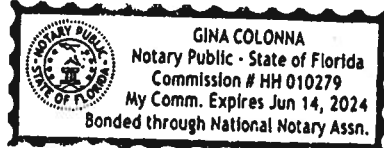
Please check one:

Personally known X
Produced Identification: _____
(Type of identification)

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

WITNESS my hand and official seal, this 22 day of OCTOBER, 2020.

[Signature]
Notary Signature



Notary Public-State of FLORIDA at Large.

My Commission Expires 6/14/2024

(Seal)