



**CONTRACT
ADDENDUM #2**

This Addendum #2 to the Westport Wastewater Treatment Facility Nutrient Reduction Improvements for Construction Management at Risk (“CMAR”) services Contract #20220044 (“Addendum”) is executed this ____ day of _____ 2023, by and between the CITY OF PORT ST. LUCIE, a Florida municipal corporation (“City”) and the Contractor (defined below).

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| Contractor’s Full Legal Name: | Wharton-Smith, Inc., a Florida Profit Corporation |
| Solicitation No./Event ID: | 20220044 |
| Solicitation Title/Event Name: | Westport Wastewater Treatment Facility Nutrient Reduction Improvements Construction Manager at Risk (“CMAR”) |
| Contract Award Date: | March 27, 2023 |
| Initial Current Contract Term: | 180 Days |
| Current Contract Expiration Date: | December 17, 2023 |
| Requested Contract Expiration Date: | December 31, 2026 |
| Initial Contract Amount: | \$ 210,305.00 (Pre-Construction) |
| Current Contract Amended Amount: | \$ 6,932,008.00 (Including Early Estimated GMP #1 – \$6,721,703.00) |
| Requested Financial Change Amount: | Estimated \$33,918,660.00 |
| New Contract Amount: | \$ 40,850,668.00 (Estimated) |
| Addendum No.: | 2 |
| Addendum Type: | Terms Revision |

RECITALS

WHEREAS, on March 27, 2023, City Council awarded Contract #20220044 for Construction Manager at Risk (“CMAR”) Pre-construction Services for the Westport Wastewater Treatment Facility Nutrient Reduction Improvements (“Project”) to Contractor (“Contract”) as amended; and

WHEREAS, the Contract is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, the Contractor developed the Guaranteed Maximum Pricing (“GMP”) as required by the Contract; and

WHEREAS, the early estimated GMP was included in the Early Package #1 as Addendum #1; and

WHEREAS, a subsequent GMP will be provided for nutrient removal at the Westport Wastewater Treatment Facility; and

WHEREAS, the City and Contractor wish to amend the Contract to approve the GMP #2 which contains the estimated GMP and authorize the Contractor to proceed with construction and related activity for the Project,

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. **RECITALS.** The foregoing “Whereas” clauses are hereby incorporated as forming the intent and purpose of this Addendum.
2. **TERMS.** The parties agree to incorporate the GMP #2, attached hereto as Exhibit “B” and amend the Contract as follows:
 - a. Term. The parties agree that the Contract Term is hereby extended to December 31, 2026.
 - b. Pricing. The GMP for the Project is estimated at \$ \$40,640,363.00.
3. **EFFECTIVE DATE.** This Addendum #2 shall be effective as of the date it is fully executed.
4. **E-VERIFY.** In accordance with section 448.095, the Contractor agrees to comply with the following:
 - A. Contractor must register with and use the E-Verify system to verify the work authorization status of all new employees of the Contractor. Contractor must provide City with sufficient proof of compliance with this provision before beginning work under this Contract.
 - B. If Contractor enters into a contract with a subcontractor, Contractor must require each and every subcontractor to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of each and every such affidavit(s) for the duration of the Contract and any renewals thereafter.
 - C. The City shall terminate this Contract if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.

- D. Contractor shall immediately terminate any contract with any subcontractor if Contractor has, or develops, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Contractor knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify the Contractor and order the Contractor to immediately terminate the Contract with the subcontractor.
- E. The City shall terminate this Contract for violation of any provision in this section. If the Contract is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates this Contract under this section, the Contractor may not be awarded a public contract for a least one (1) year after the date on which the Contract was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of a contract.
- F. The City, Contractor, or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Contract was terminated. The parties agree that such a cause of action must be filed in accordance with the Venue provision in Section XXI of the Contract.

5. SUCCESSORS AND ASSIGNS. This Addendum #2 shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

6. ENTIRE AGREEMENT. Except as expressly modified by this Addendum #2, the Contract shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Addendum #2 and the Contract (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have caused this Addendum #2 to be duly executed by their authorized representatives.

CONTRACTOR

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|---|---------------------------------------|
| Contractor's Full Legal Name: (PLEASE TYPE OR PRINT) | Wharton-Smith, Inc. |
| Authorized Signature: | |
| Printed Name and Title of Person Signing: | Gregory L. Williams, VP of Operations |
| Date: | 11/22/2023 |
| Company Address: | 750 Monroe Road, Sanford, FL 32771 |

CITY OF PORT ST. LUCIE

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| Authorized Signature: | |
| Printed Name and Title of Person Signing: | Caroline Sturgis, Director, Office of Management & Budget, and Procurement |
| Date: | |
| City Address: | 121 S.W. Port St. Lucie Blvd., Port St. Lucie, FL 34984 |