

**CITY OF PORT SAINT LUCIE
CONTRACT #20180057R**

This CONTRACT, executed this _____ day of _____, 2019, 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" party of the first part, and KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina Corporation, hereinafter called "Consultant" or "Engineer", party of the second part.

**SECTION I
RECITALS**

WHEREAS, Consultant is a licensed North Carolina Corporation doing business in Florida; and

WHEREAS, the City wishes to contract for Reverse Osmosis Membrane Study and Replacement at RO Water Treatment Plant as well as other tasks (Work) more specifically described in this Contract; and

WHEREAS, Consultant 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 Consultant 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 II
NOTICES**

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

City Project Manager: Pierre Vignier, Project Coordinator, Water Facilities
City of Port St. Lucie, Utility Systems Dept.
121 SW Port St Lucie Blvd.
Port St Lucie, FL 34984
Telephone: (772) 871-5434 Email: PVignier@cityofpsl.com

City Contract Administrator: June Raymond, Procurement Agent I
City of Port St. Lucie, Procurement Management Department
121 SW Port St. Lucie, Blvd.
Port St. Lucie, FL. 34984
Telephone 772-344-4055 Fax 772-871-7337 Email: jraymond@cityofpsl.com

Consultant: Lance Littrell, P.E.
Kimley-Horn and Associates, Inc.
189 South Orange Ave., Suite 1000
Orlando, FL 32801
Telephone: (407) 898-1511 Fax: (561) 863-8175 Email: lance.littrell@kimley-horn.com

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

The consultant shall perform the Engineering Scope of Services as described herein and as consists of the following:

Task 1 – Pilot Testing Protocol and Membrane Selection Criteria Technical Memo

The consultant shall contact and solicit projection performance packages from a minimum of four membrane suppliers. The suppliers shall be requested to prepare projections and operating data for the City's current water quality parameters supplied to them. A review shall be conducted to identify the apparent benefits and drawbacks between the submitted documentation and prepared for discussion with the City and subsequent selection of the membrane elements for pilot testing.

The consultant shall prepare the draft membrane pilot operating protocol used to test the pre-selected membrane elements summarizing the operating conditions, parameters and configurations for the membrane selection testing; data collection plan; fouling determination; and autopsy procedures. The protocol shall include the pipe sizes for the unit's wet connections and electrical type specifications for the electrical installation. The protocol shall include a responsibility matrix identifying the party or personnel responsible for the operation, sampling, data collection, data analysis, and review designees. Each person involved in the project shall have a defined role and planned effort for the duration of the pilot testing.

The protocol shall include a step by step procedure for the pilot testing process detailing the stages of membrane testing, schedule of each stage, and criteria of concern ranges of operation for the operating staff's reporting. A communication plan shall be identified should one of the parameters be out of range to notify City staff and consultant.

Consultant shall review recent raw water quality data and historical trends in order to project future raw water supply at the James E. Anderson Reverse Osmosis Water Treatment Plant (JEA RO WTP). The raw water projection shall establish, if necessary, the elevated Total Dissolved Solids (TDS) simulation for use during the membrane pilot testing for future conditions.

Consultant shall prepare draft membrane selection evaluation criteria for review with City staff prior to pilot testing initiation. The membrane selection criteria shall have quantifiable selection criteria for identifying the best performing membrane for current and projected water quality. Additional weighted components of the criteria are anticipated to include energy consumption, fouling and cleaning frequency, as well as bid pricing for the membrane elements. The membrane selection criteria shall be identified in a technical memorandum for review and comment by the City.

Consultant shall lead one (1) review meeting and site visit which shall include: location review and placement of the pilot unit; findings and discussion points/selection of the submitted membrane suppliers' performance projections; the draft pilot operating protocol; any observed water quality trends for future raw water projection; and the draft membrane selection criteria. The meeting shall be a review and discussion of each item listed above and provide final City comments for incorporation into the final documents by the consultant.

Consultant shall procure the selected membrane elements for testing including three manufacturers' membrane elements for the membrane performance testing phase.

Deliverables:

- Preliminary membrane projections
- Draft pilot operating protocol
- Final pilot operating protocol
- Draft membrane selection criteria technical memorandum
- Final membrane selection criteria technical memorandum
- Document review meeting

Task 2 - Pilot Unit Installation and Startup

The consultant shall procure the membrane pilot testing unit to complete the pilot testing, including delivery, unloading, startup and training. Membrane pilot operations training shall include one (1) day of onsite training for City operations staff. The training includes hands-on training with the pilot unit and written manual for the unit to familiarize City staff with the unit, its operation, data collection, troubleshooting, and to address any questions or comments regarding the field operation of the pilot unit.

The consultant shall procure the previously selected membrane elements for testing. The procurement shall include three (3) sets of 21 membranes each from three (3) different manufacturers for membrane selection testing. Additionally, the consultant shall provide cartridge filters for each membrane test. It is anticipated that three (3) sets of the cartridge filters shall be necessary to complete the pilot testing.

Installation can include electrical, mechanical, and process connections to the existing treatment facility. These items are included as optional services Task 2A – Pilot Unit Process Connections and Electrical Installation Services. It is our intention to utilize existing process connections to minimize modifications and penetrations into the existing facility's operational equipment.

The pilot unit rental is included for the duration of the pilot testing.

The consultant shall supply services to decommission the membrane pilot unit, disconnect electrical and mechanical connections, remove and transport the pilot unit to from the City's facility.

Deliverables:

- Membrane pilot procurement and monthly rental
- City staff training
- Membrane elements (3 sets of 21 elements)
- Pilot unit decommissioning and removal

Task 2A – Pilot Unit Process Connections and Electrical Installation Services (Optional)

The City intends to provide the pilot unit process connections and electrical supply installation services with City staff. The installation services are intended to be completed within one week of the membrane pilot unit arriving. Should the City staff not be available to complete the installation, the consultant shall procure process connections and electrical installation services for the physical installation of the membrane pilot unit. These services shall include raw feed and piping to floor drain process connections, as well as, power connection to available electrical service within the electrical room and to the membrane pilot unit.

Optional Deliverables:

- Process connection installation
- Electrical service installation

Task 3 - Pilot Unit Membrane Testing

Replacement of the existing reverse osmosis membranes shall affect the operating cost, finished water quality, and most importantly the ability to produce drinking quality water at the plant design production capacity at the JEA RO WTP for the next decade. Making the proper selection shall involve researching available and proven membranes, analyzing the affects each membrane shall have on the parameters stated above, and then validating the projections by operation of the pilot unit with the recommended membranes and arrays.

The consultant shall prepare loading instructions for testing selected membranes in selected vessels for each production train. This Scope of Work includes one (1) pilot study using three (3) separate membranes/membrane configurations with a pilot operation duration of 10 weeks each. The pilot testing shall utilize raw water following scale inhibitor and acid injection to simulate the true operation of the existing membrane elements. This testing will simulate the membrane performance for an

equal comparison of each manufacturer (or array). Following the 10-week pilot testing period for each membrane (approximately 30-week duration), the consultant will provide a recommendation of the membrane elements for procurement through the Pilot Testing Report listed in Task 5.

The consultant shall prepare an electronic spreadsheet format for recording data from the pilot unit. City staff shall collect daily routine operating data (pH, conductivities, pressures, flow rates, etc.) from the pilot unit, insert that data in the electronic spreadsheet, and forward the spreadsheet to the consultant twice per week to be used in conjunction with any automatic data collected through the pilot unit's online instruments (if included). Additional laboratory sample collection will include a suite of membrane water quality related samples to be tested by an independent laboratory prior to pilot startup, during the testing period, and prior to completion of each manufacturer's pilot testing during the study. The City staff shall prepare the sampling bottle preparation, sampling and testing with the City's laboratory for the selected parameters identified in the pilot protocol. These samples will be provided by the City's laboratory or invoiced directly to the City under their existing contract with a contracted laboratory. The following table indicates the parameters included within the laboratory testing during the pilot unit operation.

Chemical Constituent	Detection Limit (mg/L)	Sample Analysis from Raw Water Source (mg/L)
Barium (Ba)	0.0001	
Fluoride (F)	0.2	
Sodium (Na)	10	
Chloride (Cl)	10	
Iron (Fe)	0.01	
pH (Field)		
Sulfate (SO ₄)	10	
Total Dissolved Solids (TDS)	10	
Ammonia (Nitrogen)	0.5	
Nitrate (NO ₃)		
Bicarbonate (HCO ₃)		
Silica Dioxide (SiO ₂)	1	
Phosphate (PO ₄)	0.1	
Boron (B)	0.05	
Calcium (Ca)	10	
Magnesium (Mg)	2	
Potassium (K)	1	
Strontium (Sr)	0.05	
Conductivity (u mhos/cm)		
Manganese (Mn)	0.1	
Bromide (Br)	0.1	
Hydrogen Sulfide (H ₂ S)	0.3	
Total Organic Carbon (TOC)		

The consultant shall establish protocol for performing membrane autopsies that shall be used to determine fouling/scaling that may be occurring on the membrane that is not indicated in the pilot operating data. Frequently, pilot testing is not able to be operated for the longer periods needed to collect the operating data to indicate there is fouling/scaling occurring. This proposal includes the cost to conduct up to six (6) membrane autopsies.

Consultant shall provide test results in graphical format to the City staff, the installed membrane manufacturers, and their

representatives at the end of each membrane testing phase. This documentation shall be presented to the City during a progress meeting following each membrane manufacturer's changeout for the duration of the pilot testing phase of this scope.

Consultant shall include up to four (4) progress meetings which shall also include a process inspection site visits to the JEA WTP to review the overall pilot unit operation and system condition.

Deliverables:

- Membrane loading instructions for each tested membrane
- Data recording spreadsheet
- Process mechanical installation services
- Independent laboratory sample coordination
- Autopsy protocol and autopsy of tested membranes
- Data review and results graphs
- Progress meetings and site visit

Task 4 – Membrane Train Modifications Report

During the pilot testing study, the consultant shall evaluate the existing facility to identify the treatment train modifications, if necessary, to support similar operation of the RO trains.

Currently, trains 1 through 3 operate with slightly different interstage boost due to the interstage devices and the flow control valves. This task shall identify the necessary improvements to these energy recovery devices as well as other suggested improvements to the membrane trains for consistent operation. The membrane train modification recommendations shall be included within the report identified in Task 5. In addition to a description and recommendation, the consultant shall provide an AACE Class 4 cost estimate for proposed modifications.

Optional Deliverables:

- Process modification analysis and recommendation (to be incorporated into Task 5 report)

Task 5 - Prepare Report

Consultant shall prepare a report which presents the findings and recommendations of the pilot testing program described in this scope of services. consultant will prepare 4 hard copies of a pilot testing report in draft format and attend one meeting to discuss these findings.

Consultant shall provide a draft report for review and shall update the report incorporating the comments discussed at review meetings and submit four (4) hard copies of the final report.

Deliverables:

- Draft pilot testing report (4 hard copies, 1 electronic PDF copy)
- Final pilot testing report (4 hard copies, 1 electronic PDF copy)

Task 6 – Membrane Procurement Documents

Consultant shall prepare procurement documents intended to be used by the City to solicit competitive bids or, for direct purchase, warranty, and installation of replacement membranes. Documents prepared by the consultant shall be limited to the technical components of a set of bid documents and up to two (2) drawings for the train modifications. These specification sections shall include membrane specifications, membrane performance requirements based on the findings of the pilot study, data required to be submitted with each bid including a complete a 5-year membrane life cycle analysis, membrane projections for 1-year, 3-year, and 5-year operation, and membrane warranty requirements.

Consultant shall review the draft bid documents with City staff prior to finalization and bid advertisement. During bidding, the Consultant shall provide responses to technical questions submitted by the membrane element manufacturers. Responses shall be formatted for the City's inclusion within any bid addendums as necessary.

After receipt of bids by the City, consultant shall review the submissions to confirm they adhere to the technical specifications and are complete. Following this review, the consultant shall prepare a letter recommendation for the City to procure replacement membrane elements.

Deliverables:

- Membrane procurement documents
- Bid question responses and addenda
- Bid review and award recommendation letter

Task 7 – Membrane Installation Consultant Procurement Documents

Consultant shall prepare procurement documents intended to be used by the City to solicit competitive bids for installation of the replacement membranes, membrane train upgrades, workmanship warranty, and installation of replacement membranes. Documents prepared by the consultant shall be limited to the technical components of a set of bid documents and up to four (4) drawings for the train modifications. These specification sections shall include membrane specifications, data required to be submitted with each bid including a complete 5- year plan for membrane replacement, membrane projections for startup and testing certification, membrane startup and testing services, train modifications to be performed during the membrane replacement for each train, and any additional process upgrades identified within the pilot testing report.

Consultant shall review the draft bid documents with City staff prior to finalization and bid advertisement. During bidding, the consultant shall provide responses to technical questions submitted by the membrane element manufacturers. Responses shall be formatted for the City's inclusion within any bid addendums as necessary.

After receipt of bids by the City, consultant shall review the submissions to confirm they adhere to the technical specifications and are complete. Following this review, the consultant shall prepare a letter recommendation for the City to procure a membrane installation and train upgrades consultant.

Deliverables:

- Membrane replacement and train upgrade procurement documents
- Bid question responses and addenda
- Bid review and award recommendation letter

Task 8 – Membrane Installation and Startup Certification

Consultant shall coordinate and observe the membrane installation and startup for each train. The replacement of all ten trains shall be broken up in phases to denote the specific trains to be replaced. Phase A shall include trains 1-3 and shall be installed immediately following the bidding efforts in Task 6 and 7. Phase B shall include trains 4 and 5 shall be installed in the fiscal year following the certification and start up and certification of 1-3. Phase C shall include trains 6-8. Phase D includes trains 9 and 10 which shall be installed in the fiscal following Phase C. A table of the Phases described above and the projected installation dates is shown below:

Phase	Trains Upgraded/ Membranes Replaced	Anticipated Fiscal Year
Phase A	Trains 1-3	FY 20/21
Phase B	Trains 4-5	FY 21/22
Phase C	Trains 6-8	FY 22/23
Phase D	Trains 9-10	FY 23/24

Following the startup of each membrane reload, the consultant shall review startup and testing data collected and provided by the membrane installation firm. Following the data collection, a normalization baseline shall be created for each train. The trending and data normalization tracking software integration support and confirmation, and certification of loading completion

and compliance with performance specifications shall be provided by the consultant. The consultant shall coordinate with the Florida Department of Environmental Protection (FDEP) to verify startup and replacement confirmation for regulatory notification.

Consultant shall review the draft train completion and startup certification documents with City staff prior to finalization and certification.

Task 9 – Membrane Train Optimization Report

Consultant shall review and evaluate the existing trains 1-10 and the facility as a whole to identify optimization and efficiency improvements with the existing pumps, piping, valves, instruments and other hydraulic components. Instrumentation shall also be reviewed to confirm system control and operational efficiencies through the system control software. Each train shall be reviewed individually as well as the overall system. Upgrades and efficiency improvements shall be qualified and financially quantified within an optimization report. consultant shall prepare 4 hard copies of a pilot testing report in draft format and attend one meeting to discuss these findings.

consultant shall provide a draft report for review and shall update the report incorporating the comments discussed at review meetings and submit four (4) hard copies of the final report.

Deliverables:

- Draft pilot testing report (4 hard copies, 1 electronic PDF copy)
- Final pilot testing report (4 hard copies, 1 electronic PDF copy)

ITEMS PROVIDED BY OWNER

Consultant shall be entitled to rely on the completeness and accuracy of all information provided by the City. The City shall provide all information and services requested by consultant during the project including, but not limited to, the following:

1. Membrane normalized data – current water plant operating data
2. Purchase of additional membrane elements or cartridge filters for testing not identified above
3. Pilot testing chemicals, power, water, concentrate disposal, and any other consumables required for the pilot testing
4. Existing facility design drawings and specifications
5. Laboratory coordination, sampling, analysis bottles and laboratory fees

ADDITIONAL ITEMS AND SERVICES

Consultant is available to provide additional services as requested by the City based on a negotiated lump sum fee for each task or utilizing hourly rates established by this contract. These services can include maintenance tasks, evaluations, and Engineering assignments related to the City's Utility. Some specific anticipated items that may be necessary for future upgrades, improvements and studies at the treatment facilities include:

1. FDEP permitting is not anticipated to be required for the membrane replacement but can include notification to the District prior to changeout
2. Membrane pilot unit upgrades or installation
3. Recommendations for treatment facility upgrades and modifications to meet regulatory requirements, reduce maintenance, optimize operation, improve performance, or study alternatives
4. Engineering evaluations, designs, reviews, presentations, permitting, planning, and other related services
5. Operational assistance, troubleshooting, training, or product development
6. Membrane autopsies, cleaning, investigations and process reviews

The City at its discretion has the option to include any additional value-added services deemed to be in the best interest of the taxpayers based on the professional assessment.

SECTION IV

TIME OF PERFORMANCE

Contract period shall begin on _____, and terminate on _____, for a total of five (5) years. The Consultant shall 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 this contract has not been completed by the specified date, the Consultant agrees to provide work as authorized by the Project Manager until all work specified in this contract has been rendered. Written requests must be submitted to the Project Manager for consideration of extension of completion time due to strikes, unavailable materials, or other similar causes over which the Consultant feels he has no control. Requests for time extensions must be submitted immediately but in no event more than two (2) weeks upon occurrence of conditions, which, in the opinion of the Consultant, warrant such an extension with reasons clearly stated and a detailed explanation given as to why the delays are considered to be beyond the Consultant's control.

Task Name	Duration
Task 1 – Pilot Testing Protocol and Membrane Selection Criteria	2 months from NTP
Task 2 – Pilot Unit Installation and Startup	3 months from Task 1
Task 3 – Pilot Unit Membrane Testing	12 months from Task 2
Task 4 – Membrane Train Modifications	12 months from Task 1
Task 5 – Prepare Report	4 months from Task 4
Task 6 – Membrane Procurement Documents	3 months from Task 5
Task 7 – Membrane Installation and Startup Certification	5 years from NTP (as budgeted by the City)
Task 8 – Membrane Train Optimization	24 months from NTP
Optional Task Name	
Task 2B – Pilot Unit Electrical Installation Services (Optional)	3 months from Task 1

Note:

- Scheduled times listed above include 2 weeks for review of deliverables by the City and other entities.
- A detailed project schedule will be provided at the project kickoff meeting and will be continuously updated and provided to the City at each progress meeting
- Reviews and other impacts to the schedule will be noted both increasing or decreasing actual durations of each task

SECTION V

RENEWAL OPTION

There are no renewal options for this contract.

SECTION VI

COMPENSATION

The total amount to be paid by the City to the Consultant is on Lump-sum basis per the schedule of items and services, in the amount of **\$474,320.00**. Payments will be disbursed in the following manner:

Task Name	Fee
Task 1 – Pilot Testing Protocol and Membrane Selection Criteria Technical Memorandum	\$ 29,990
Task 2 – Pilot Unit Installation and Startup	\$ 85,030
Task 3 – Pilot Unit Membrane Testing	\$ 96,120
Task 4 – Membrane Train Modifications Report	\$ 19,090
Task 5 – Prepare Report	\$ 49,460
Task 6 – Membrane Procurement Documents	\$ 17,350
Task 7 – Membrane Installation Consultant Procurement Documents	\$ 9,360
Task 8 – Membrane Installation and Startup Certification	\$133,920
Task 9 – Membrane Train Optimization Report	\$ 34,000
Total Fee	\$474,320

Optional Task Name	Optional Fee
Task 2A – Pilot Unit Process Connections and Electrical Installation Services (Optional Addition)	\$ 22,720
Task 3 – Autopsy Reduction (3 Less Autopsies – Optional Deduct)	(\$ 6,000)

Engineer shall provide additional services within the scope of this project as requested by City in accordance with the enclosed Fee Schedule. Additional services will not be performed unless specifically requested by the City, and an addendum to this agreement is executed.

Classification	Billing Rate
Senior Principal	\$275
Senior Engineer	\$275
Senior Project Manager	\$250
Project Manager	\$195
Engineer	\$165
Analyst	\$130
Designer	\$130
Clerical	\$78

Hourly Rates for additional services may be utilized, as determined by the City.

Hourly Rates include all reimbursable expenditures, including travel, meals, copies and so forth.

Consultant must invoice the City for the amount of the indemnification payment and said invoice must accompany the signed Contracts.

The Consultant must 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 as a consequence of the suspension or discontinuance of the work.

Invoices for services must be submitted once a month, by the 10th of the month, and payments must be made within thirty (30) days unless Consultant has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments must be made provided the submitted invoice is accompanied by adequate supporting documentation and approved by the Project Manager.

Progress Payments- The City may make partial payment during the progress of the work upon percentage of work completed as approved by the Project Manager.

No payment for projects involving improvements to real property must be due until Consultant delivers to City a complete release of all claims arising out of the Contract or receipts in full in lieu thereof, and an affidavit asserting 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 Purchase Order number or VISA number, Contract number, detail of items with prices that correspond to the Contract, unique invoice number and partial or final release of liens.

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

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

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. All changes will be authorized by a written change order approved by the Procurement Department Director, or her designee. Work must be changed and the contract price and completion time must 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 must 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 VIII **CONFORMANCE WITH BID**

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

SECTION IX **INDEMNIFICATION/ HOLD HARMLESS**

Consultant agrees to indemnify and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, to the extent caused by the negligence, recklessness, errors, omissions or other wrongful conduct of Consultant, agents, laborers, subconsultants or other personnel entity acting under Consultant's control in connection with the Consultant's performance of services under this Contract and to that extent Consultant shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals. That the aforesaid hold-harmless Contract by Consultant shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Consultant or any agent laborers, subconsultants or employee of Consultant regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Consultant shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Consultant on the Work. Consultant must give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Contract. Consultant must secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Contract for any reason, Consultant must transfer such permits, if any, and if allowed by law, to the City. This indemnification must survive the termination of this Contract.

SECTION X

SOVEREIGN IMMUNITY

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

SECTION XI

INSURANCE

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

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its 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 Consultant shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$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 Consultant 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 Consultant shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

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

3. 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 Consultants 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.

3. Professional Liability Insurance: The Engineer 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. Automobile Liability Insurance: The Consultant shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Consultant does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Consultant to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.

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 must read **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents and must include Contract #20180057R-Reverse Osmosis Membrane Study and Replacement at RO Water Treatment Plant must be listed as additionally insured."** The Policy must be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Consultant must 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 must be attached to the Certificate of Insurance. All independent Consultants and subconsultants utilized in this project must furnish a Certificate of Insurance to the City in accordance with the same requirements set forth herein.

5. Waiver of Subrogation: The Consultant shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Consultant shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. 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 Consultant 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 Consultant for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the Consultant's most recent annual report or audited financial statement.

It shall be the responsibility of the Consultant to ensure that all independent Consultants and/or subconsultants comply with the same insurance requirements referenced above.

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

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

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

SECTION XIII

PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS

Subject to the laws of the State of Florida and of the United States, neither Consultant nor any Subconsultant, supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

SECTION XIV

PROHIBITION AGAINST CONTINGENT FEES

The professional engineer warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the professional engineer to solicit or secure this agreement 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 professional engineer any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.

SECTION XV

COMPLIANCE WITH LAWS

The Consultant must give all notices required by and must otherwise comply with all applicable laws, ordinances, and codes and must, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Consultant will comply with all requirements of 28 C.F.R. § 35.151. Consultants and subconsultants must comply with § 119.0701, Fla. Stat. The Consultant and subconsultants are to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this Contract, unless the records are exempt from 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.

Pursuant to Title VI of the Civil Rights Act of 1964 and other related federal and state laws and regulations, the City of Port St. Lucie will not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status per Resolution 14-R162 adopted by City Council on November 10, 2014.

RECORDS

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

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

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

1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
2. During the term of the contract, the Consultant must 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 must be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Consultant's records under this Contract include but are not limited to, supplier/subconsultant invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Consultant agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Consultant who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

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

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

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Consultant, or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

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

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

SECTION XVI
CLEANING UP

The Consultant shall, during the performance of this Contract, remove and properly dispose of resulting dirt and debris, and keep the work area reasonably clear. Upon completion of the work, Consultant shall remove all of Consultants' equipment and all excess materials, and put the work area in a neat, clean, sanitary and safe condition.

SECTION XVII
INSPECTION AND CORRECTION OF DEFECTS

In order to determine whether the required material has been delivered or the required work performed in accordance with the terms and conditions of the Contract documents, the Project Manager shall make inspection as soon as practicable after receipt from the Consultant of a Notice of Performance or delivery ticket. If such inspection shows that the required material has been delivered and required work performed in accordance with terms and conditions of the Contract documents and that the material and work is entirely satisfactory, the Project Manager must approve the invoice when it is received. Thereafter the Consultant must be entitled to payment, as described in Section VI. If, on such inspection the Project Manager is not satisfied, he must as promptly as practicable inform the parties hereto of the specific respects in which his findings are not favorable. Consultant shall then be afforded an opportunity 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. Such examination, inspection, or tests made by the Project Manager, shall not relieve Consultant of its responsibility to remedy any deviation, deficiency, or defect.

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

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

Defective Work - All work and/or materials not meeting the requirements of these specifications shall be deemed as defective by the City, and all such work and/or material, whether in place or not, shall be removed immediately from the site of the work. All rejected materials that have been corrected shall not be used until the City has issued written approval to the Consultant(s). Without unnecessary delay and without any additional cost to the City, all work that has been rejected shall be remedied or removed and replaced in a manner acceptable to the City. If the Consultant(s) 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, or his/her designee, may employ labor to remove and replace such defective work and/or materials. All charges for replacement of defective materials and/or work shall be charged to the Consultant(s) and may be deducted from any moneys due to the Consultant(s) or his Surety.

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

SECTION XVIII

ADDITIONAL REQUIREMENTS

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

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 and other public agencies. Consultants may agree to allow other public agencies to contract with them for the same items at the same terms and conditions as this bid, during the period of time that this bid is in effect. Each political entity will be responsible for execution of its own requirements with the Consultant.

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

Permission to Use - The Consultant(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 Consultant(s).

Access to Work - The Consultant(s) must 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 must 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 progress. However, failure to reject defective work at the time it is done and/or failure to reject materials must 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 Consultant(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 Consultant(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 Consultant to subcontract with a consultant to perform Consultant Quality Control when the consultant is under contract with the City to perform work on any project described in the Consultant's contract with the City. Prior to approving a consultant for Consultant Quality Control, the Consultant shall submit to the City a certificate from the proposed consultant certifying that no conflict of interest exists.

Adjustments - The Consultant(s) shall be responsible to arrange with utility companies for any adjustment necessary. The Consultant(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 Consultant(s) shall be responsible for the charge and care of all work from damage by the elements or from any cause whatsoever until Consultant has been paid in full.

No claim for damages or any claim other than for an extension of time shall be made or asserted against the City by reason of any delays. Consultant shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from the City for direct, indirect, consequential, impact or other costs, expenses, or damages, including but not limited to, costs of accidental or inefficiency, arising because of delay, disruption, interference from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable, or avoidable. Consultant shall be entitled only to extensions of the Contract Time as sole and exclusive remedy for such delays, in accordance with and to the extent specifically provided herein.

Damage to Property – The Consultant 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, fences, guardrail, pipe and underground structures, public highways, etc. Whenever such property is damaged due to the activities of the Consultant, it shall be immediately restored to a condition equal to or better than existing before such damage or injury was done by the Consultant, and at the Consultant's expense. The Consultant'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 XIX **LICENSING**

Consultant warrants that he possesses all licenses and certificates necessary to perform required work and is not in violation of any laws. Consultant warrants that his license and certificates are current and will be maintained throughout the duration of the Contract.

SECTION XX **SAFETY PRECAUTIONS**

Precaution shall be exercised at all times for the protection of persons, including employees, member of the public and property. The safety provisions of all applicable laws and building and construction codes shall be observed.

Personal Protective Equipment (PPE) - All personnel are required to wear PPE in the process of the work including eye protection, hearing protection, respiratory protection as necessary, gloves, approved safety boots with steel or composite toes, reflective vests and any other PPE as necessary for the work.

Safety Precautions - The Consultant shall erect and maintain all necessary safeguards for the protection of the Consultant's employees and subconsultants, City personnel, and the general public; including, but not limited to, posting danger signs, coned off vehicles, arrow boards and other warnings against hazards as is prudent and/or required by law to protect the public interest. The Consultant's employees shall wear company uniforms, safety vests, safety boots and safety glasses. All damage, injury or loss to persons and/or property caused, directly or indirectly, in whole or in part, by the Consultant's employees, or subconsultant(s), or anyone directly or indirectly employed by said parties shall be remedied by the Consultant(s).

OSHA Compliance – Consultant must agree that the products furnished, and application methods will comply with applicable provisions of the Williams-Steiger Occupational Safety and Health Act of 1970.

SECTION XXI **ASSIGNMENT**

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

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

A. Termination for Breach of Contract. If the Consultant refuses or fails to deliver material as required and/or prosecute the work with such diligence as will insure its completion within the time specified in this Contract, the City by written notice to the Consultant, may terminate Consultant's rights to proceed. Upon such termination, the City may take over the work and prosecute the same to completion, by Contract or otherwise, and the Consultant shall be liable to the City for any additional cost incurred by it in its completion of the work. The City may also in event of termination obtain undelivered materials, by Contract or otherwise, and the Consultant shall be liable to the City for any additional cost incurred for such material. Consultant shall also be liable to the City for liquidated damages for any delay in the completion of the work as provided below. If the Consultant's right to proceed is so terminated, the City may take possession of and utilize in completing the work such materials, tools, equipment and facilities as may be on the site of the work and necessary therefore.

B. Liquidated Damages for Delays. If material is not provided or work is not completed within the time stipulated in this Contract, including any extensions of time for excusable delays as herein provided, the Consultant shall provide to the City two hundred (\$200.00) dollars as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed. The Consultant shall be jointly and severally liable to the City for the amount thereof.

C. Excusable Delays. The right of the Consultant to proceed shall not be terminated nor shall the Consultant be charged with liquidated damages for any delays in the completion of the work or delivery of materials due to: (1) any acts of the Federal Government, including controls or restrictions or requisitioning of materials, equipment, tools or labor by reason of war, national defense or any other national emergency, (2) any adverse acts of the City, (3) causes not reasonably foreseeable by the parties at the time of the execution of the Contract that are beyond the control and without the fault or negligence of the Consultant, including but not restricted to, acts of God, acts of the public enemy, acts of another Consultant in the performance of some other Contract with the City, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions, and (4) any delay of any Subconsultant occasioned by any of the above mentioned causes. However, the Consultant must promptly notify the City in writing within two (2) days of the cause of delay. If, on the basis of the facts and the terms of this Contract, the delay is properly excusable the City shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

D. Termination by the City. The City may terminate this Contract with or without cause by giving the vendor/Consultant thirty (30) day notice in writing. Upon delivery of said notice the vendor/Consultant shall discontinue all services in connection with the performance of this Contract and shall proceed to cancel promptly 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 or other costs shall be due Consultant except for work timely completed.

E. Termination for Insolvency. The City also reserves the right to terminate the remaining services to be performed in the event KIMLEY-HORN AND ASSOCIATES, INC. is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.

SECTION XXIII
LAW AND VENUE

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.

SECTION XXIV
APPROPRIATION APPROVAL

The Consultant acknowledges that the City of Port Saint 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, the City may terminate this Contract and that no charges, penalties or other costs shall be assessed.

SECTION XXV
CODE OF ETHICS

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

SECTION XXVI
COMPLIANCE WITH LAW, RULES & REGULATIONS

Consultant shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by it, on the Work. Consultant shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Contract. Consultant shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Contract for any reason, Consultant shall transfer such permits, if any, and if allowed by law, to the City.

SECTION XXVII
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 XXVIII
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 XXIX
ENTIRE CONTRACT

The written terms and provisions of this Contract shall supersede all prior verbal 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.

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

STATE OF FLORIDA §
 COUNTY OF § Orange

Before me, the undersigned authority, personally appeared affiant Hao Chau,
 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 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 #2018057R-JR, Reverse Osmosis Membrane Study and Replacement at RO Water Treatment Plant.

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 include 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

KIMLEY-HORN AND ASSOCIATES, INC.

Name of Firm

By:

[Signature]
 Authorized Signature

The foregoing instrument was acknowledged before me by Hao Chau who is personally known to me.

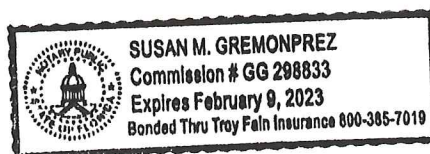
WITNESS my hand and official seal in the State of County last aforesaid this 9th day of July, 2019.

(SEAL)

[Signature]
 Signature

Susan M. Gremontprez
 Notary Name (typed or printed)

Administrative Assistant
 Title or Rank



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

CITY OF PORT ST. LUCIE FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____
City Purchasing Agent

By: [Signature]
(Authorized Representative of
Company)

State of: Florida County of: Orange

Before me personally appeared: Hao Chau
(Please print)

Please check one:

Personally known ✓

Produced Identification: ✓
(Type of identification)

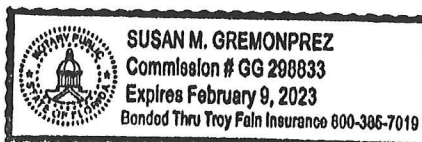
and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.
(s/he)

WITNESS my hand and official seal, this 9th day of July, 2019.

[Signature]
Notary Signature

Notary Public State of FL at Large.

My Commission Expires 9-9-23.



(seal)