

**THE CITY OF PALM COAST, FLORIDA**



**REQUEST FOR LETTER OF INTEREST (LOI-CD-19-41)**

**FOR**

**PROFESSIONAL SERVICES**

**FOR**

**SWCS K-6/Smith Trail Replacement Design Services**

**A. INVITATION TO RESPOND**

The City of Palm Coast is seeking Letters of Interest (LOI-CD-19-41) **only from firms selected as qualified per RFQ-CD-CM-14-04, RFSQ-SW-18-10 and RFQ-CD-CME-17-36** to provide professional design services.

- Submission Guidelines::**  
 Responses shall be prepared based upon the Continuing Services Agreement and this Scope of Services. Proposal submittals shall be received electronically through the City’s Procurement Portal Web Page (<https://palmcoastgov.bonfirehub.com/portal>) by the specified time and date. **No other method of submission will be allowed or considered (i.e. mailed, emailed, or hand delivered). Any emailed, mailed, or hand delivered submittals will be returned to the sender and not be considered.** Your submission must be uploaded, submitted, and finalized through the City’s Procurement Portal Web Page prior to the specified time and date. We strongly recommend that you give yourself sufficient time and at least ONE (1) hour before Closing Time to begin the uploading process and to finalize your submission. No submissions through the City’s Procurement Portal Web Page will be allowed or considered after the specified time and date. If you need general assistance, please contact Central Services Division staff at least one business day in advance. For technical questions related to your submission, please contact Bonfire at [Support@GoBonfire.com](mailto:Support@GoBonfire.com). There shall be a maximum page limit of 30 pages not including the front and back cover.
- Due Date/Time:**  
 Your submission must be uploaded, submitted, and finalized prior to the Closing Time of Thursday, March 7, 2019 **2:00 PM EST**. We strongly recommend that you give yourself sufficient time and at least ONE (1) day before Closing Time to begin the uploading process and to finalize your submission. Upload your submission at: <https://palmcoastgov.bonfirehub.com/opportunities/13227>

Requested Information:

Name	Type	# Files	Requirement
Proposal	File Type: PDF (.pdf)	Multiple	Required

Please note the type and number of files allowed. The maximum upload file size is 1000 MB.

Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

You will not be able to prepare a submission unless you submit 'Yes' for your Intent to Bid by **Mar 07, 2019 1:00 PM EST**.

The Q&A period for this opportunity starts Feb 20, 2019 8:00 AM EST. The Q&A period for this opportunity ends Feb 28, 2019 2:00 PM EST. You will not be able to send messages after this time.

Your submission must be uploaded, submitted, and finalized prior to the Closing Time of **Mar 07, 2019 2:00 PM EST**. We strongly recommend that you give yourself sufficient time and at

least **ONE (1) day** before Closing Time to begin the uploading process and to finalize your submission.

**Important Notes:**

Each item of Requested Information will only be visible after the Closing Time.

Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission.

Minimum system requirements: Internet Explorer 11, Microsoft Edge, Google Chrome, or Mozilla Firefox. JavaScript must be enabled. Browser cookies must be enabled.

**Need Help?**

Palm Coast uses a Bonfire portal for accepting and evaluating proposals digitally. Please contact Bonfire at [Support@GoBonfire.com](mailto:Support@GoBonfire.com) for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>

- **Requests for Clarifications or Interpretations:**

All Proposers shall carefully examine the proposal documents. Any ambiguities or inconsistencies shall be brought to the attention of the City Central Services Division prior to the due date in writing through the City's Procurement Portal Web Page (<https://palmcoastgov.bonfirehub.com/portal>); failure to do so, on the part of the Proposer, will constitute an acceptance by the Proposer of any subsequent decision. Any questions concerning the intent, meaning and interpretations of the proposal documents including the attached draft agreement, shall be requested in writing through the City's Procurement Portal Web Page (<https://palmcoastgov.bonfirehub.com/portal>) at least three (3) calendar days prior to the due date. The City shall not be responsible for any oral statement or instructions made by any employee(s) of the City in regard to this proposal. Any oral statements or instructions given before the bid/proposal due date will not be binding. Note: All prospective proposers are hereby cautioned not to contact any member of the City of Palm Coast staff other than Central Services Procurement. Failure to adhere to this requirement shall result in disqualification.

- **Issuance of Addenda:**

Should revisions to the proposal documents become necessary; the City shall post addenda information on the City's Procurement Portal Web Page (<https://palmcoastgov.bonfirehub.com/portal>). All Proposers should check the City's Procurement Portal Web Page at least one (1) calendar days before the date fixed to verify information regarding Addenda. Failure to do so could result in rejection of the proposal submittal as unresponsive. Proposer shall sign, date, and return all addenda with their proposal submittal. Addenda information will be posted on the City's Procurement Portal Web Page. It is the sole responsibility of the Proposer to ensure he/she obtains information related to Addenda.

- **Award of Contract:**

The City reserves the right to accept or reject any or all proposals with or without cause, to waive technicalities, or to accept the LOI, which, in its judgment, best serves the interest of the City. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Personnel Office ADA Coordinator (386) 986-3718 forty-eight (48) hours in advance of the meeting(s). The City shall rank all Proposers in order of preference and submit this ranking as its' final recommendation to the City Manager. The City Manager will make a recommendation to the City Council. The City Council's decision will be final.

- **Evaluation of Proposals:**

In the event a Work Order is to be awarded, it will be to the consultant who has the highest overall score after the Evaluation Team ranking as indicated in section below, who will thereafter enter into a written Agreement with the City. Fees will be negotiated with the firm that is selected as most qualified. Should the City be unable to agree to a fee with the selected firm the City reserves the right to formally terminate negotiations with the selected firm, and after a seventy-two (72) hour cooling off period, to contact the next closest ranked firm.

- **Evaluation Method:**

The City shall negotiate the award to the responsive and responsible proposer who submits a proposal package that is most advantageous to the City. The City Manager will appoint an Evaluation Committee to evaluate proposals. In determining the most advantageous proposal, the City reserves the right to consider criteria such as, but not limited to, customer service, quality, and standardization, past experience, delivery, discount, past performance and/or service reputation, and service capability. The City may opt to establish alternate selection criteria to protect its best interest or meet performance or operational standards.

Each Evaluation Committee member will evaluate the below factors to determine which Proposers will be short-listed. Each member will assign a criterion score ranging from the minimum points scale allowed to the maximum points scale allowed for each rating factor.

The City Central Services Division will compile the scores from each Evaluation Committee member for each Proposer.

After accumulating the members' scores, the firm with the highest score shall be ranked first, the next highest shall be ranked second, and so on.

The City reserves the right to contact references provided by the Proposer or visit projects listed in the proposals. Information supplied by client references or obtained upon site visits may be used in determining the relative merits of the Proposer under any and all of the Evaluation Criteria.

The right is reserved to make a separate award of each item, group of items or all items, and to make an award, in whole or in part, whichever is deemed in the best interest of the City.

- **Formal Oral Presentations (if required):**

If Consultant presentations are deemed necessary, the Consultants will be contacted to schedule their presentations. Presentations will be a total of 45 minutes. Each consultant will have up to 30 minutes for their presentation and 15 minutes for questions and answers with the Selection Committee.

- **Proposal Submission requirements:**

**Letter of Introduction:** The letter of introduction shall be addressed to the City of Palm Coast Central Services Division of no more than two (2) pages and shall include at a minimum the following:

Name of Individual, Partnership, Company, or Corporation submitting LOI; (If a Proposer is a corporation, it must be certified with the Florida Secretary of State and have a corporate status in good standing, and in the case of out-of-state corporation, they must present evidence of authority to do business in the State of Florida & the City of Palm Coast.)

City's LOI Name: **LOI-CD-19-41 SWCS K-6/Smith Trail Replacement Design Services**

Statement that all terms and conditions of the LOI are understood and acknowledged by the undersigned.

The letter shall name the person or persons authorized to make representations for the Proposer and give address (es) and telephone number(s) for same.

Signature(s) of representative(s) legally authorized to bind the Proposer.

A brief history of your company

Core services you provide

A brief organizational structure of your firm

Years in business

**Table of Contents:** There shall be a Table of Contents for material included in the Proposal. Include section numbers, section names, and page numbers.

**Project Team:** Submit a staffing plan, which clearly illustrates the key elements of the organizational structure of the entire design team. Identify the project team members, including major and minor sub-consultants, and provide their contact information and technical resumes. Project management and key personnel within each area of required services shall be identified and past experience of each, as it relates to this project, shall be discussed. The City must approve any changes to the Project Management & Key Personnel. This section should include information only on the individuals who will perform work on this project.

**Qualifications and Experience with Similar Projects:** Describe your staff and team's capacity to complete projects in a timely and efficient manner, while providing high quality workmanship and organization.

Provide a listing of projects, maximum of five, by a team member who is specifically part of the team proposed in the response. Identify the team member(s) specific role & responsibilities on each project.  
Provide client references.

**Project Understanding:** Indicate knowledge of the scope of the project. Provide identification of unique project issues. Describe the management and quality assurance process to be undertaken.

**Schedule & Availability:** Provide a realistic, comprehensive and logical schedule that minimizes contract duration. Proper attention should be provided to the project's critical path elements. Schedule should take into Consideration City of Palm Coast 7-day design review at 30%, 90%, and 100% completion.

**\*End of proposal submission requirements section\***

**Evaluation Criteria for Ranking of Consultants:** The award subsequent to the opening and evaluation of this qualification will be made to the Consultant who in the opinion of the City of Palm Coast is selected as most qualified per the following criteria:

**PROJECT TEAM (maximum of 40 Points):** Provide information that demonstrates expertise, experience and capabilities along with organization chart and staffing plan, which clearly illustrates the key elements of the organizational structure of the entire team. Identify the project team members, including major and minor sub-consultants, and provide their contact information and technical resumes. Project management and key personnel shall be identified and past experience of each, as it relates to this project, shall be discussed. The City must approve any changes to the Project Management & Key Personnel. This section should include information only on the individuals who will perform work on this project.

**PROJECT UNDERSTANDING AND APPROACH (maximum 20 points):** Proposer should demonstrate their project understanding and the path to implement City's goals and objectives. Provide a description of intended project approach, planning philosophy and initial ideas of redeveloping the plan, specifically addressing all the task listed under the scope of work

**EXPERIENCE WITH SIMILAR PROJECTS (maximum of 30 Points):** Provide a listing of Stormwater Design Projects, maximum of five, by a team member who is specifically part of the team proposed in the response. Identify the team member(s) specific role & responsibility on each project. Identify specific project details including but not limited to location, year, size, cost, and project description. Provide the contact information for the Owner. Each project will be awarded up to 4 points; more credit will be given for projects that are similar to the proposed project as well as more recently completed projects.

**SCHEDULE AND AVAILABILITY (maximum of 10 Points):** Submit a proposed task schedule for proposed team members that identify anticipated milestones and their associated phasing:

- a. Credit shall be given based upon the availability of the proposed staff as well as for a realistic, comprehensive and logical schedule that minimizes contract duration. Proper attention should be provided to the project's critical path elements.
- b. Include in schedule:
  - Kick-Off meeting with the Stormwater Department to collect feedback to determine various options that may be considered.
  - Review Meeting with Stormwater Department after compilation of DRAFT Plans so the appropriate course of design can be selected.

**B. PROJECT DESCRIPTION – SWCS K-6/Smith Trail Replacement Design Services**

**Project description/Invitation to respond**

The City of Palm Coast is seeking professional engineering services for design and construction plans for the replacement of the Surface Water Control Structure (SWCS) K-6 and the road crossing under Smith Trail. All plans and design documents are to be prepared with Standard English values in accordance with all applicable FDOT manuals and guidelines.

Demolish and remove existing weir K-6, Seminole Waterway; remove existing triple 66" CMPs at Smith Trail and replace with concrete structures; rebuild weir K-6 either as a standalone structure with access from Smith Trail or a drop structure at the upstream end of the new concrete culverts; including all associated roadway, shoulder, utility work and associated appurtenances.

New weir will include a primary spillway with electronically controlled gate structure, designed for the 25-yr, 24-hr. storm event. Weir overflow shall be designed to carry a 100-yr., 24-hr storm. Work shall also include all associated environmental permitting. All work will be in accordance with the City of Palm Coast Land Development Code and applicable FDOT standards.

**Scope of work:**

Services should include

- Specifications Package Preparation – prepare specifications package based on FDOT Standard Specifications and City of Palm Coast Standards.
- Survey work necessary to prepare and complete design of the project.
- Drainage –drainage design necessary to accommodate proposed improvements.

**Deliverables:**

- Signed and sealed construction plans
- All applicable construction permits, if required.

**Objective:**

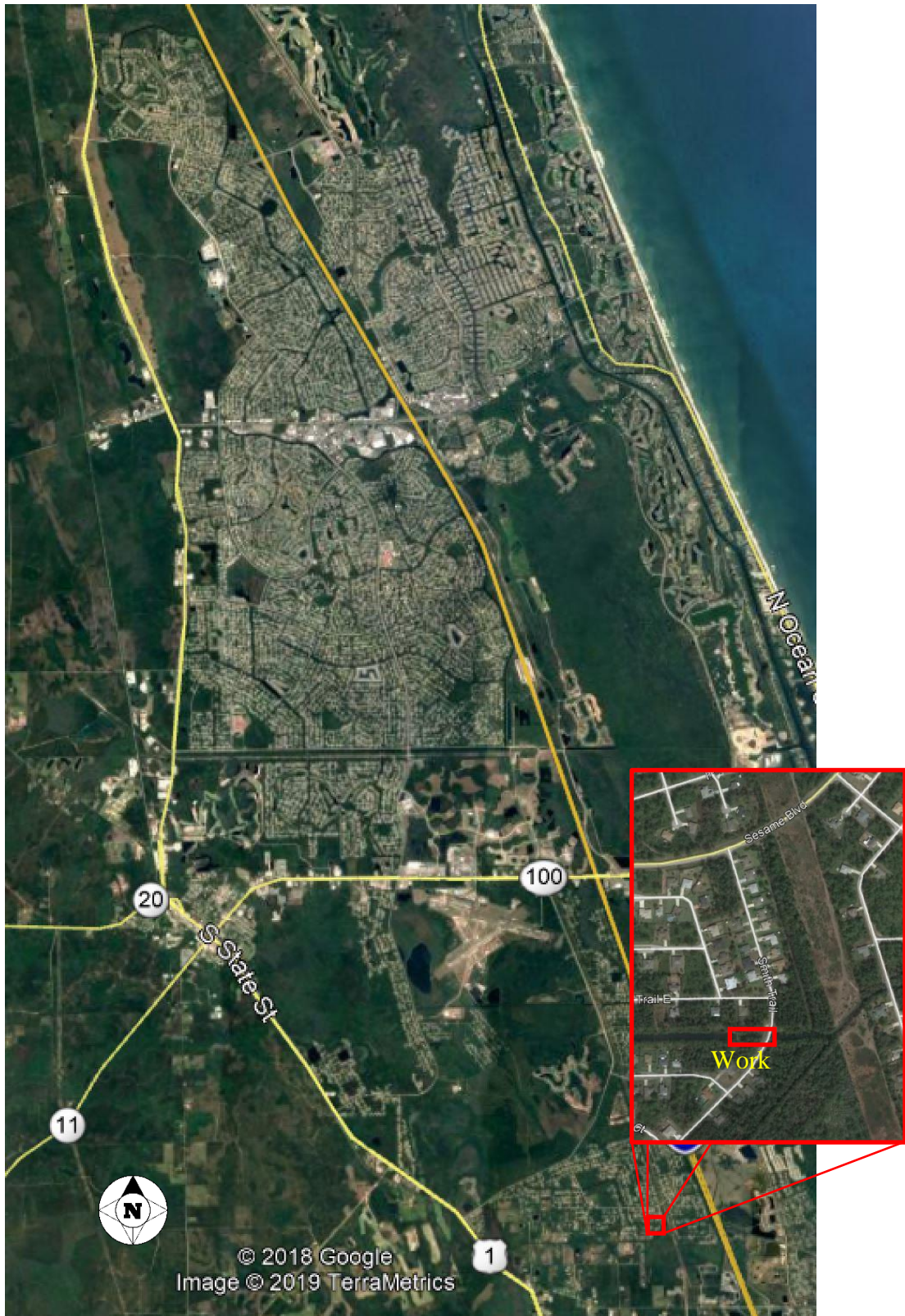
The main objective is for the Consultant to engineer designs which are cost effective, construction viable, permit compliant and integrating of City of Palm Coast existing systems and standards.

**Project Schedule:**

Below is a tentative schedule for the selection of the Proposer and completion of the work:

1.	LOI Published	February 20, 2019
2.	Submission of Qualifications Proposals	March 07, 2019
3.	Evaluation Committee Meeting and Final Ranking of Firms	March 14, 2019
4.	Top Ranked Firm to submit Draft Scope & Fee to City for Review	March 28, 2019
5.	City to provide comments regarding the Draft Version of Scope & Fee	April 06, 2019
6.	Top Ranked Firm to submit Final Version of Scope & Fee	April 13, 2019
7.	City Council Workshop Meeting to discuss proposed Design Contract	April 30, 2019
8.	City Council Meeting for Award of Design Contract	May 07, 2019
9.	Anticipated Execution of Contract by Proposer & City	May 15, 2019
10.	Project Kick Off Meeting	May 17, 2019
11.	Project duration: Refer to Evaluation Criteria	90 days
12.	Final plans and permits ready to bid out for construction	August 15, 2019









**MASTER SERVICES AGREEMENT**

**THIS MASTER SERVICES AGREEMENT** ("Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") , between \_\_\_\_\_ whose primary place of business is \_\_\_\_\_ ("SUPPLIER") and the CITY OF PALM COAST, a municipal corporation of the State of Florida, holding tax exempt status, whose address is 160 Lake Avenue, Palm Coast, Florida 32164, ("CITY"). CITY and SUPPLIER are collectively referred to herein as "Parties".

**WITNESSETH:**

**WHEREAS**, CITY desires to procure \_\_\_\_\_ from a competent and qualified supplier and has conducted a formal \_\_\_\_\_ ( ) requesting bids/quotes for the services; and

**WHEREAS**, SUPPLIER is in the business of providing said services, is competent and qualified to provide said services to CITY, responded to the \_\_\_\_\_ and desires to render said services to CITY at the firm prices established herein and in accordance with the terms and conditions stated herein;

**NOW, THEREFORE**, in consideration of the mutual understandings and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, CITY and SUPPLIER agree as follows:

**1. SUPPLY OF SERVICES:**

**A. Work Order/Services.** This Agreement standing alone does not authorize performance of Services or require CITY to place any orders. During the term of this Agreement, subject to the terms of a work order ( "Work Order"), attached to this Agreement as Exhibit A agreed to by CITY and SUPPLIER, SUPPLIER shall provide the services, including any deliverables ("Services"), set forth in such Work Order. At a minimum, each Work Order will set forth a brief project description, the specific tasks, activities and deliverables to be performed, a timeline for performance and completion, a budget, and a payment schedule, with milestone payments where applicable. Each Work Order must be executed by the Parties prior to the commencement of Services thereunder. SUPPLIER shall use its best efforts to provide Services to CITY as described herein; to keep CITY advised of the progress of the work; to provide CITY with such reports, presentations, charts, graphs, and the like as are appropriate to the nature of the services to be performed hereunder; and to maintain complete files and records of all Services provided . Execution of a Work Order shall be an affirmative and irrefutable representation by SUPPLIER to CITY that SUPPLIER is fully familiar with any and all requisite work conditions related to the provisions of the services.

**B. Quality of Services.** SUPPLIER shall make no claim for additional time or money based upon its failure to comply with this AGREEMENT. SUPPLIER has informed CITY, and hereby represents to CITY, that it has extensive experience in performing and providing the services described in this AGREEMENT, and that it is well acquainted with the components that are properly and customarily included within such Services and the requirements of laws, ordinances, rules, regulations, or orders of any public authority or licensing entity having jurisdiction over CITY Projects. SUPPLIER shall diligently and in a professional and timely manner perform and provide the Services included in each Work Order. All Services to be provided shall in the minimum be in conformance with commonly accepted industry and professional codes and standards, standards of CITY, and the laws of any Federal, State, or local regulatory agencies. SUPPLIER shall be responsible for keeping apprised of any changing laws applicable to the services to be performed under this Agreement. SUPPLIER shall be responsible for the professional quality, accepted standards, technical accuracy and the coordination of all services furnished by SUPPLIER under this Agreement, as well as the conduct of its staff, personnel, employees, and agents. SUPPLIER shall work closely with the CITY on all aspects of the provision of the services. SUPPLIER shall be responsible for the professional quality, technical accuracy, competence, methodology, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by SUPPLIER under this Agreement. SUPPLIER shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature

- C. Schedule/Delivery.** Time is of the essence in the performance of this Agreement and any Work Order hereunder. SUPPLIER shall begin performing services upon execution by both Parties of the Work Order and written notification to proceed by CITY. SUPPLIER and CITY agree to make every effort to adhere to the schedules as described in each Work Order. However, if SUPPLIER is delayed at any time in the provision of services by any act or omission of CITY or by any other supplier employed by CITY, the time of completion shall be extended for such reasonable time as the CITY may decide in its sole and absolute discretion. If SUPPLIER'S performance is affected by any event beyond its reasonable control, including fire, explosion, flood, or other acts of God; war, terrorist acts or civil commotion; strike, lock-out or labor disturbances; or failure of public utilities or common carriers, SUPPLIER shall not be liable in connection with this Agreement to the extent affected by such force majeure event; provided that SUPPLIER gives CITY immediate written notice of the force majeure event and exercises all reasonable efforts to eliminate the effects of the force majeure event on its performance as soon as and to the extent practicable. It is further expressly understood and agreed that SUPPLIER shall not be entitled to any damages or compensation, or be reimbursed for any losses, on account of any delay or delays resulting from any of the aforesaid causes or any other cause whatsoever.
- D. Change Orders.** No changes to a Work Order shall be made without the prior written approval of the Parties. The agreed upon changes shall be detailed in a Change Order. Each Change Order shall include a schedule of completion for the services authorized. Change Orders shall identify this Agreement and the appropriate Work Order number. Change Orders may contain additional instructions or provisions specific to the services to be provided. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement. Execution of any Change Order shall constitute a final settlement and a full accord and satisfaction of all matters relating to the change including but not limited to scope, costs and adjustments to the schedule.
- E. Supplier Designated Representative/Key Personnel.** SUPPLIER shall furnish a SUPPLIER Designated Representative to administer, review, and coordinate the provision of services under this Agreement and each Work Order. Upon request by CITY, SUPPLIER shall submit to CITY detailed resumes of key professional personnel that will be involved in performing services described in the Work Order. CITY hereby acknowledges its acceptance of such personnel to perform services under this Agreement. If, at any time, SUPPLIER desires to change key professional personnel in an active assignment, it shall submit the qualifications of the new professional personnel to CITY for prior approval. Key professional personnel shall include the principal-in-charge, project managers, and others interfacing with CITY personnel.
- F. Replacement of SUPPLIER Personnel.** CITY reserves the right to reject at any time for any lawful reason whatsoever any of SUPPLIER'S personnel assigned by SUPPLIER in connection with any Work Order. SUPPLIER shall as soon as possible thereafter provide a replacement satisfactory to CITY. In no event shall performance of the Services be delayed or shall CITY be charged for any time required for any replacement SUPPLIER'S personnel to be trained to provide or become familiarized with the Services, whether the replacement is requested by CITY or not.
- G. CITY Premises.** At all times while on CITY'S premises, SUPPLIER shall comply with all rules and regulations of CITY. SUPPLIER shall be responsible for its employees and agents while on CITY'S premises.
- H. Ownership of Deliverables.** All deliverables, including any analysis, reference data, presentations, inventions, computer models, survey data, plans and reports, or any other form of written instrument or document and ideas made or conceived by SUPPLIER that result from or in connection with or during the performances of Services for CITY and any proprietary rights thereto, shall be the property of CITY. SUPPLIER agrees to assign, and does hereby assign, to CITY all right, title and interest of whatsoever kind and nature in and to all Deliverables and related proprietary rights. SUPPLIER shall execute, acknowledge, and deliver to CITY all such further papers as may be necessary to enable CITY to own, register, publish or protect said Deliverables and related proprietary rights in any and all countries and to vest title to said Deliverables and related proprietary rights in CITY. SUPPLIER grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the SUPPLIER for the CITY under this Agreement.
- I. Acceptance Criteria.** For any milestone in which SUPPLIER submits a Deliverable, CITY shall have the right to review and test such deliverable for the functional requirements or acceptance criteria specified for such deliverable and shall notify SUPPLIER if there are any deficiencies. SUPPLIER shall use its best efforts to promptly cure any such deficiencies, and after completing any such cure, SUPPLIER shall resubmit the deliverable for review and testing as set forth above. Any applicable warranty period shall only commence after acceptance by CITY.

## **2. COMPENSATION:**

- A. Costs and Expenses.** Compensation to SUPPLIER for the services performed on each Work Order shall be as set forth in the Work Order/Change Order. **OR** Pricing for the performance of Services as specifically set forth in any Work Order issued hereunder shall be in accordance with the rates, fees and discounts set forth in Exhibit C, Price Schedule. CITY shall only reimburse SUPPLIER for out-of-pocket expenses such as gas, tolls, mileage, meals, etc., that are directly attributable to the performance of work under a Work Order and have been approved in writing in advance by an authorized representative of CITY.
- B. Invoicing.** Each Work Order shall be invoiced separately. As work progresses for services satisfactorily performed, SUPPLIER shall render to the CITY, at the close of each calendar month, an itemized detailed invoice properly dated, describing all services rendered, proper documentation of the cost of the services, the name and address of SUPPLIER, Work Order Number, Contract Number, the billing period, if applicable, and all other information required by this Agreement. SUPPLIER shall not send any invoices with respect to Services, and no claim from SUPPLIER for payment (including any amount for fees or expenses) will be allowed for any work done by SUPPLIER with respect to such Services, prior to the Parties' executing the Work Order and CITY issuing a purchase order to SUPPLIER with respect to Services. Work performed by SUPPLIER without written approval by the City's Designated Representative shall not be compensated. Any work performed by SUPPLIER without written approval by CITY is performed at SUPPLIER'S own election. Except for charges or expenses of SUPPLIER expressly set forth in the applicable Work Order, CITY shall not be responsible for any other charges or expenses of SUPPLIER or any mark-ups on any expenses of SUPPLIER. SUPPLIER shall submit invoices to CITY with supporting documentation for approved expenses, signed by the Authorized Representative. Original invoices should be submitted via email to [ap@palmcoastgov.com](mailto:ap@palmcoastgov.com).
- C. Payment Terms.** The Florida Prompt Payment Act shall apply when applicable. Invoices which are in an acceptable form to CITY and without disputable items will be processed for payment under the Prompt Payment Act., Fla. Stat. 218.23; payments shall be made by CITY to SUPPLIER not more than once monthly. SUPPLIER shall continue to perform during any dispute of an invoice.
- D. Financial Reconciliation.** At the completion or termination of the Services and before the final payment will be made, SUPPLIER shall, upon request by CITY, provide CITY with a financial reconciliation of funds paid by CITY and tasks completed or partially completed.

### **3. TERM AND TERMINATION:**

- A. Term.** This Agreement shall take effect on the Effective Date and shall terminate at the end of one year. Following the initial term and at the sole option of CITY, this Agreement may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders and Purchase Orders issued pursuant to this Agreement and prior to the expiration date. Work Orders shall remain in effect until delivery and acceptance of the work authorized by the Work Order as well as during periods of warranty and guarantee.
- B. Termination By CITY.**
- i. Termination Without Cause. CITY may terminate this Agreement at any time upon fifteen (15) days prior written notice; provided however, that any Work Order entered into shall survive such termination under the terms of this Agreement until the conclusion of such Work Order unless such Work Order is specifically terminated. CITY may terminate any incomplete Work Order at any time and for any or no reason upon written notice to SUPPLIER. In the event of such termination, SUPPLIER shall immediately cease all work in connection with the applicable Work Order after receipt of written notice from CITY unless such notice expressly provides otherwise.
  - ii. Termination for Cause. CITY may terminate this Agreement for cause at any time upon written notice allowing SUPPLIER five (5) days to remedy the breach. Cause shall include but is not limited to:
    1. If, in CITY'S opinion, adequate progress under a Work Order is not being made by SUPPLIER; or
    2. If, in CITY'S opinion, the quality of the services provided by SUPPLIER is/are not in conformance with commonly accepted professional standards, standards of CITY, the requirements of Federal or State regulatory agencies, and SUPPLIER has not corrected such deficiencies in a timely manner as reasonably determined by CITY; or

3. SUPPLIER or any employee or agent of SUPPLIER is indicted or has a direct charge issued against him for any crime arising out of or in conjunction with any work that has been performed by SUPPLIER; or
4. SUPPLIER becomes involved in either voluntary or involuntary bankruptcy proceedings, or makes an assignment for the benefit of creditors; or
5. SUPPLIER violates the Standards of Conduct provisions herein or any provision of State or local law or any provision of the City Code of Conduct.

- iii. Except where CITY terminates for cause, SUPPLIER shall be entitled to payment for any work performed and accepted by CITY and any CITY approved expenses irrevocably committed prior to the effective date of termination. CITY shall be entitled to an appropriate refund for any amounts advanced to SUPPLIER for Services not yet performed as of the effective date of termination. SUPPLIER shall not be entitled to any damages for such early termination of Services. In no event shall CITY be responsible for any amounts in the aggregate greater than (i) the total that would have been due under such Work Order or (ii) the value of the work done by SUPPLIER in accordance with such Work Order and this Agreement with respect thereto prior to termination, whichever is less.
- iv. Within five (5) days from the effective date of termination, SUPPLIER shall provide or make available to CITY all materials provided by CITY to SUPPLIER and all CITY materials, including any work-in-progress and all full and partial copies thereof, and shall also submit an invoice to CITY in accordance with the pricing set forth in such Work Order for all work done by SUPPLIER in accordance with such Work Order and this Agreement with respect thereto prior to termination.

- C. Termination By SUPPLIER.** SUPPLIER shall have the right to terminate this Agreement or any Work Order hereunder by way of a written notice, if CITY commits a material breach of the Agreement or a Work Order hereunder and fails to remedy such breach within fifteen (15) days after receipt of written notice of default.
- D. Cooperation.** Upon receipt of a notice for any termination of this Agreement and any Work Order hereunder, the Parties shall cooperate with each other and use all commercially reasonable efforts to effect a smooth transition process.
- E. Survivability.** The terms of this Agreement shall survive in full force and effect as to any incomplete Work Orders and Purchase Orders issued prior to the expiration of this Agreement and such Work Orders and Purchase Orders shall continue to be subject to this Agreement until such Work Orders and Purchase Orders are completed or terminated in accordance with this Agreement.

#### **4. REPRESENTATIONS AND WARRANTIES.**

##### **A. SUPPLIER represents and warrants the following:**

- i. The Services shall be performed strictly in accordance with and conform to this Agreement, the applicable Work Order and any applicable industry standards and practices.
- ii. The Services shall be provided by qualified personnel, suitably skilled and trained in the performance of the Services, and performed in a diligent and professional manner.
- iii. SUPPLIER has obtained, at its sole and exclusive expense, any and all permits, licenses, permissions, approvals or similar consents required to perform the Services.
- iv. All deliverables, material, supplies or goods provided by SUPPLIER shall be free from defects and be of merchantable quality.
- v. All deliverables provided shall be original and shall not infringe any copyright or violate any rights of any persons or entities whatsoever, except that SUPPLIER shall not be responsible for any claim arising solely from SUPPLIER'S adherence to CITY'S written instructions or directions which do not involve items of SUPPLIER'S origin, design or selection.
- vi. SUPPLIER shall comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the Services provided to the City. SUPPLIER agrees that any program or initiative involving the

work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment shall ensure compliance with any and all employment, safety, environmental and health laws.

- B. Without limiting any other rights that CITY may have, CITY reserves the right to refuse any Services if SUPPLIER does not, or the Services do not, conform to the foregoing. Acceptance of any part of the Services shall not bind CITY to accept any non-conforming Services simultaneously provided by SUPPLIER, nor deprive CITY of the right to reject any previous or future non-conforming Services.
- C. The representations and warranties contained herein are deemed to be material obligations and shall survive any payment by CITY and shall survive any termination or expiration of this Agreement and any termination or completion of any or all Work Orders.

## 5. INDEMNIFICATION/SOVEREIGN IMMUNITY AND INSURANCE.

- A. **Indemnification.** SUPPLIER shall indemnify, hold harmless and defend CITY: (1) from and against any and all claims, damages, losses, or expenses, including but not limited to, attorney's fees, arising out of or resulting from the performance or provision for services required under this Agreement, including damage to persons or property, provided that same is caused in whole or part by the error, omission, negligent act, failure to act, malfeasance, misfeasance, conduct, or misconduct of SUPPLIER, its agents, servants, officers, officials, employees, or subcontractors. CITY reserves its rights to be represented in any such action by its own counsel at its own expense. The indemnification obligations herein shall not be limited to the amount of insurance coverage required herein. In addition, in claims against any person or entity indemnified under this Section by an employee of SUPPLIER or its agents or subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for SUPPLIER or its agents or subcontractors, under Workers Compensation acts, disability benefits acts, or other employee benefit acts. This indemnification provision shall survive any termination or expiration of this Agreement.
- B. **Sovereign Immunity.** CITY expressly retains all rights, benefits and immunities of sovereign immunity and nothing herein shall be deemed to affect the rights, privileges, and immunities of City as set forth in Section 768.28, Florida Statutes.
- C. **Insurance.** SUPPLIER shall, at SUPPLIER'S own cost, procure insurance in accordance with Exhibit "B" Insurance Requirements, attached hereto and made a part hereof.

## 6. ALTERNATIVE DISPUTE/CONFLICT RESOLUTION.

- A. In the event of a dispute related to any performance or payment obligation arising under this Agreement, the Parties agree to exhaust the conflict resolution procedures reasonably imposed by CITY prior to filing suit or otherwise pursuing legal remedies.
  - B. SUPPLIER agrees that it will file no suit nor otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the dispute resolution procedures set forth in subsection (A) of this Section.
  - C. In the event that the CITY'S dispute resolution procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the Parties shall exercise their best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be reasonably imposed by CITY. The costs of voluntary mediation shall be shared equally among the Parties participating in the mediation.
7. **ASSIGNMENT.** SUPPLIER shall not assign this Agreement, any rights hereunder or any monies due or to become due, nor delegate or subcontract any obligations or work, without the prior written consent of CITY, and any such purported assignment without such written consent shall be void. This Agreement shall be binding on SUPPLIER'S heirs, executors, legal representatives, successors and permitted assigns.
8. **AUDIT OF BOOKS AND RECORDS.** SUPPLIER shall maintain all books, documents, papers, accounting records and other evidence pertaining to this Agreement during the term of this Agreement and for five (5) years subsequent to the expiration or termination of this Agreement and/or final payment whichever is later. CITY or CITY'S authorized representative, may at all reasonable times during the term of this Agreement and for five (5) years thereafter and upon reasonable notice, inspect and audit the books, documents, papers, accounting records and other evidence

pertaining to this Agreement and SUPPLIER shall make such materials available at SUPPLIER'S office upon CITY'S request. In the event any audit or inspection conducted after final payment reveals any overpayment by CITY under the terms of this Agreement, SUPPLIER shall refund such overpayment to CITY within thirty (30) days of notice by CITY. SUPPLIER agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

- 9. AUTHORIZED REPRESENTATIVE.** Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement, and to undertake all obligations imposed on it. The person(s) executing this Agreement for SUPPLIER certifies/certify that he/she/they is/are authorized to bind SUPPLIER fully to the terms of this Agreement.
- 10. CHOICE OF LAW/JURISDICTION.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Flagler County, Florida, or the Middle District of Florida in Orlando, FL., if in federal court.
- 11. COMPLIANCE WITH LAWS.** SUPPLIER agrees to comply with all Federal, State, and City laws, ordinances, regulations, and codes applicable to the Services including, but not limited to, the following:
- A. Discrimination/ADA.** SUPPLIER shall not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. SUPPLIER, moreover, shall comply with all the requirements as imposed by the Americans with Disability Act, the regulations of the Federal government issued thereunder, and any and all requirements of Federal or State law related thereto. If SUPPLIER or an affiliate is placed on a discriminatory vendor list, such action may result in termination by CITY. SUPPLIER shall certify, upon request by CITY, that it is qualified to submit a bid under Section 287.134, Discrimination, (2) (c), Florida Statutes.
  - B. Drug Free Workplace.** SUPPLIER shall certify, upon request by CITY, that SUPPLIER maintains a drug free workplace policy in accordance with Section 287.0878, Florida Statutes. Failure to submit this certification may result in termination.
  - C. Immigration.** CITY shall not intentionally award publicly-funded contracts to any SUPPLIER who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) Section 274A(e) of the Immigration and Nationality Act (INA)]. CITY shall consider the employment by SUPPLIER of unauthorized aliens, a violation of Section 274A (e) of the INA.
  - D. Conflict of Interest.**
    - i. SUPPLIER hereby certifies that no undisclosed conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of SUPPLIER, or any interest in property that SUPPLIER may have.
    - ii. SUPPLIER shall not engage in any action that would create a conflict of interest for any CITY employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.
    - iii. SUPPLIER further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to CITY.
  - E.** Violation of this Section shall be considered as justification for immediate termination of this Agreement.
- 12. CONTRACT DOCUMENTS.** The RFSQ/RFP and all submissions prepared by SUPPLIER in response to the RFSQ/RFP are incorporated herein by reference to the extent not inconsistent with the terms and conditions as set forth herein. Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement.



- 13. ENFORCEABILITY.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The waiver of a breach of any term or condition of this Agreement or Purchase Order hereunder shall not be deemed to constitute the waiver of any other breach of the same or any other term or condition hereunder. In addition, neither CITY'S review, approval or acceptance of, nor payment for, any Goods provided hereunder shall be construed to operate as a waiver of any rights under this Agreement or the Purchase Order.
- 14. ENTIRE AGREEMENT.** This Agreement shall constitute the entire understanding of the Parties and shall not be changed, amended, altered or modified except in writing and signed by authorized representatives of the Parties with the same formality and equal dignity herewith. All prior agreements, whether written or oral between the Parties relating to the subject matter hereof are superseded by this Agreement and are of no further force or effect. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written. No term included in any invoice, estimate, confirmation, acceptance or any other similar document in connection with this Agreement or a Work Order hereunder shall be effective unless expressly stated otherwise in a writing signed by authorized representatives of the Parties with the same formality and equal dignity herewith. Any amendments to this Agreement must be in writing signed by both Parties. In the event of a conflict between this Agreement and a Work Order or any other writing, this Agreement controls over such inconsistent or additional terms.
- 15. EXCLUSIVITY.** The Parties agree that CITY hereunder is not guaranteeing that any minimum amount of Services will be ordered from SUPPLIER under this Agreement. The relationship between SUPPLIER and CITY is not one of exclusivity. Without limiting the foregoing, SUPPLIER agrees that CITY has the right to benchmark, whether formally or informally, any services offered by SUPPLIER or any terms of this Agreement or any Work Order and to competitively bid any project it may have.
- 16. INDEPENDENT CONTRACTOR.** The relationship of the Parties established by this Agreement and all Work Orders is that of independent contractors. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the Parties, or as making the SUPPLIER, (including its officers, employees, and agents), the agent, representative, or employee of CITY for any purpose, or in any manner, whatsoever. Persons employed by SUPPLIER in the performance of Services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to CITY'S officers and employees either by operation of law or by CITY.
- 17. INTERPRETATION.** This Agreement is the result of bona fide arms length negotiations between CITY and SUPPLIER and all Parties have contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.
- 18. MOST FAVORED CUSTOMER.** SUPPLIER warrants and represents that all terms, including prices, charges, benefits and warranties, in this Agreement are at least as or more favorable than any terms that SUPPLIER has offered to any other person or entity, for the types of Services covered by this Agreement. If at any time during this Agreement SUPPLIER shall offer any other person or entity terms more favorable, SUPPLIER shall promptly notify CITY of such more favorable terms, and if such more favorable terms were offered by SUPPLIER to another person or entity CITY shall immediately receive the benefit of the more favorable terms for the remainder of this Agreement, including any renewals thereof, as well as retroactively to the effective date such more favorable terms were offered by SUPPLIER. Upon CITY'S request, SUPPLIER shall advise CITY in writing, executed by an officer of SUPPLIER, that this section has not been contradicted by SUPPLIER since the later of (i) the Effective Date of this Agreement or (ii) the date of the most recent notice provided by SUPPLIER pursuant to this section.
- 19. NOTICES.** Whenever either party desires to give notice to the other, it must be given by written notice, sent by registered or certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving of notice:

**FOR CITY:**  
The City Manager

**FOR SUPPLIER:**

---

City of Palm Coast  
160 Lake Avenue  
Palm Coast, Florida 32164

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**20. ORDER OF PRECEDENCE.** In the event of a conflict between the terms and conditions of this Agreement and any related exhibits, attachments, proposals, or Work Orders, the terms of this Agreement shall take precedence and control over those of the exhibit, attachment, proposal, or Work Order unless otherwise agreed to in writing by all Parties. In the event of a conflict between the terms and conditions of a Work Order and any related exhibits, attachments, or proposals, the terms of the Work Order shall take precedence and control over those of the exhibit, attachment, or proposal thereto unless otherwise agreed to in writing by all Parties.

**21. PUBLIC RECORDS LAW.**

**A.** The Parties specifically acknowledge that this Agreement is subject to the laws of the State of Florida, including without limitation, Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the Parties. If SUPPLIER is either a "contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, SUPPLIER shall:

- i. Keep and maintain all public records required by CITY to perform the Services herein; and
- ii. Upon request from CITY'S custodian of public records, provide CITY 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 Chapter 119, F.S. or as otherwise provided by law; and
- iii. 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 Agreement Term and following completion of the Agreement if SUPPLIER does not transfer the records to CITY; and
- iv. Upon completion of the Agreement, transfer, at no cost, to CITY all public records in possession of SUPPLIER or keep and maintain public records required by CITY to perform the Services herein. If SUPPLIER transfers all public records to CITY upon completion of the Agreement, SUPPLIER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SUPPLIER keeps and maintains public records upon completion of the Agreement, SUPPLIER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CITY, upon request from CITY'S custodian of public records, in a format compatible with the information technology systems of CITY.

**B.** All requests to inspect or copy public records relating to the Agreement shall be made directly to CITY. Notwithstanding any other provision of this Agreement to the contrary, failure to comply with the requirements of this paragraph shall result in the immediate termination of the Agreement, without penalty to CITY. A contractor who fails to provide the public records to CITY within a reasonable time may be subject to penalties pursuant to Section 119.10, Florida Statutes. Further, SUPPLIER shall fully indemnify and hold harmless CITY, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from SUPPLIER'S failure to comply with these requirements.

**c. IF THE SUPPLIER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUPPLIER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, ATTN: VIRGINIA SMITH, CITY CLERK, AT 386-986-3713, vsmith@palmcoastgov.com, 160 LAKE AVENUE, PALM COAST, FLORIDA 32164.**

**22. SEVERABILITY.** If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law when consistent with equity and the public interest.

**23. SUBCONTRACTORS.** In the event that SUPPLIER, during the course of this Agreement, requires the Services of any subcontractors or other professional associates in connection with performance of this Agreement or any Work Order, SUPPLIER must first secure CITY'S prior express written approval. Any subcontract shall be in writing and

shall incorporate this Agreement and require the subcontractors to assume performance of SUPPLIER'S duties commensurately with SUPPLIER'S duties to CITY under this Agreement, it being understood that nothing herein shall in any way relieve SUPPLIER from any of its duties under this Agreement or any Work Order hereunder. SUPPLIER shall remain fully responsible for the performance of subcontractors or other professional associates. SUPPLIER shall provide CITY with executed copies of all subcontracts.

**24. WAIVER.** The failure of CITY to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to CITY hereunder, shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

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**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date below written for execution by the CITY.

**CITY OF PALM COAST**

**SUPPLIER**

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

Print: Beau Falgout

Title: Interim City Manager

Date: \_\_\_\_\_

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

(Authorized Corporate Officer)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibits

- A - Work Order Template Form
- B - Insurance Requirements
- C - Price Schedule

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WORK ORDER # \_\_\_\_\_  
 PO #: \_\_\_\_\_



DATE: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Project Manager's Initials \_\_\_\_\_

**SUPPLIER INFORMATION**

**BID DETAILS**

Name		Project Title	
Street		Bid #	
City, State, Zip		City Council Approval date	

**TOTAL COST: \$** \_\_\_\_\_  
*(must equal amount of Purchase Order)*

1. **INCORPORATION BY REFERENCE** The provisions of the agreement dated \_\_\_\_\_, \_\_\_\_\_ ("Agreement") are hereby expressly incorporated by reference into and made a part of this Work Order.

2. **METHOD OF COMPENSATION (chose one):** \_\_\_\_\_ **FIXED FEE** \_\_\_\_\_ **NOT TO EXCEED\***  
 Fixed - Amount Proposed is set amount for services – will not change regardless of time. Not to exceed -: Spend over time shall not exceed Total Cost without approved change order

\*If "NOT TO EXCEED", then TOTAL COST is (chose one): \_\_\_\_\_ **UNIT BASED** \_\_\_\_\_ **PERCENT OF FIXED FEE** \_\_\_\_\_%

3. **PRICING (chose one):** \_\_\_\_\_ **ATTACHED** \_\_\_\_\_ **INCLUDED IN CONTRACT**

4. **SCHEDULE (chose one):** \_\_\_\_\_ **AS NEEDED BASIS** \_\_\_\_\_ **SHALL BE COMPLETED BY -** \_\_\_\_/\_\_\_\_/20\_\_\_\_

5. **DESCRIPTION OF SERVICES (chose one):** \_\_\_\_\_ **ATTACHED** \_\_\_\_\_ **INCLUDED IN CONTRACT**

6. **OTHER ATTACHMENTS TO THIS WORK ORDER:** \_\_\_\_\_ **No** \_\_\_\_\_ **Yes** If yes, identify below:

\_\_\_\_\_  
 \_\_\_\_\_

7. **TIME IS OF THE ESSENCE:** The obligation of Supplier to perform services shall commence upon execution of this Work Order and shall be completed as set forth above. Time is of the essence. Failure to meet the completion date shall be a material default and may be grounds for termination of this Work order and the Agreement.

8. **CONFLICT.** In the event of a conflict between the terms and conditions of the Agreement and this Work Order, the terms of the Agreement shall govern unless otherwise agreed to in writing by all parties. In the event of a conflict between the terms and conditions of this Work Order and any attachments, the terms of this Work Order shall govern unless otherwise agreed to in writing by all parties.

**WITNESS WHEREOF,** the parties hereto have made and executed this Work Order on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the purposes stated herein.

**SUPPLIER APPROVAL**

**CITY APPROVAL**

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

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

Print: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: **Assistant City Manager or Designee**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**  
**Insurance Requirements**

**1. GENERAL.**

- 1.1. Prior to performance under this Agreement, SUPPLIER shall furnish CITY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required in Section 3 below. CITY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy using CG 1185 or its equivalent, as well as additional insured under the business auto policy. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by SUPPLIER and shall be maintained in force until the Agreement completion date. The insurance provided by SUPPLIER shall apply on a primary basis and any other insurance or self-insurance maintained by CITY or CITY'S officials, officers, or employees shall be in excess of and not contributing with the insurance provided by or on behalf of SUPPLIER. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Certificate of Insurance shall provide that CITY shall be given not less than thirty (30) days written notice prior to the modification, cancellation or restriction of coverage.
- 1.2. Until such time as the insurance is no longer required to be maintained by SUPPLIER, SUPPLIER shall provide CITY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided. In addition to providing the Certificate of Insurance, if required by CITY, SUPPLIER shall, within thirty (30) days after receipt of the request, provide CITY with a certified copy of each of the policies of insurance providing the coverage required.
- 1.3. SUPPLIER waives all rights against CITY for recovery of damages to the extent covered by Commercial General Liability, Commercial Umbrella Liability, Business Auto Liability or Workers Compensation and Employers Liability insurance maintained per requirements herein.
- 1.4. Neither approval by CITY nor failure to disapprove the insurance furnished by a subcontractor or another supplier shall relieve SUPPLIER of SUPPLIER'S full responsibility for performance of any obligation including SUPPLIER indemnification of CITY under this Agreement.
- 1.5. It shall also be the responsibility of SUPPLIER to ensure that all of its subcontractors performing Services under this Agreement are in compliance with the insurance requirements of this Agreement as defined above.
- 1.6. Compliance with the insurance requirements set forth herein shall not relieve SUPPLIER, its employees or agents of liability from any indemnification obligation under this Agreement.
- 1.7. Nothing herein shall be construed as a waiver of sovereign immunity by CITY beyond the limits set forth in Section 768.28, Florida Statutes.

**2. INSURANCE COMPANY REQUIREMENTS.**

- 2.1. SUPPLIER shall obtain or possess and continuously maintain the coverage from a company or companies, with a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best CITY. Companies issuing policies other than Workers' Compensation, must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.
- 2.2. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the requisite Best's Rating and Financial Size Category, SUPPLIER shall, as soon as SUPPLIER has knowledge of any such circumstance, immediately notify CITY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as SUPPLIER has replaced the unacceptable insurer with an insurer acceptable to CITY, SUPPLIER shall be deemed to be in default of this Agreement.

3. **COVERAGE.** Without limiting any of the other obligations or liability of SUPPLIER, SUPPLIER shall, at SUPPLIER'S sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. The amounts and types of insurance shall conform to the following minimum requirements:

**3.1. Workers' Compensation/Employer's Liability.**

**A. Workers Compensation Coverage** SUPPLIER'S insurance shall cover SUPPLIER for liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. SUPPLIER will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both SUPPLIER and its subcontractors is outlined in subsection (b) below. In addition to coverage from the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act and any other applicable Federal or State law. Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

**B. Employers Liability Coverage**

\$500,000.00	(Each Accident)
\$500,000.00	(Disease-Each Employee)
\$500,000.00	(Disease-Policy Limit)

**3.2. Commercial General Liability.**

Using the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability:

	LIMITS
General Aggregate (per project greater)	\$2,000,000.00 or 2x Per Occurrence (whichever is greater)
Personal & Advertising Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00

The CGL limits may be satisfied by a combination of primary CGL and Umbrella/Excess coverage. When Umbrella/Excess is provided it shall follow form.

**3.3. Business Auto Policy.**

SUPPLIER'S insurance shall cover SUPPLIER for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

The minimum limits to be maintained by SUPPLIER (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, SUPPLIER shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under this Agreement. The separate aggregate limits to be maintained by SUPPLIER shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

The minimum amount of coverage under the Business Auto Policy shall be:

	LIMITS
Each Occurrence Bodily Injury and Property Damage Liability Combined	\$1,000,000.00

**3.4. Professional Liability:** SUPPLIER shall provide professional liability insurance as well as errors and omission insurance in a minimum amount of \$1,000,000 CSL or its equivalent, with a combined single limit of not less than \$1,000,000, protecting SUPPLIER against claims of the City for negligence, errors, mistakes, or omissions in the performance of Services to be performed and furnished by SUPPLIER.

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**EXHIBIT C**  
**Price Schedule**

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