

RESOLUTION NO. 25-01

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, RELATING TO PROFESSIONAL CONSULTING SERVICES; ADOPTING FACTUAL FINDINGS REGARDING THE CONSULTANTS' COMPETITIVE NEGOTIATION ACT (CCNA) AND COMPETITIVE SELECTION PROCESS OF THE CITY OF LAKE ALFRED, FOR RFQ 23/24-01; AFFIRMING THE SELECTION OF ROBERT A. STEVENS & ASSOCIATES, INC., AS THE FIRST ENTITY TO ENGAGE IN COMPETITIVE NEGOTIATION PURSUANT TO THE CCNA; APPROVING THE PIGGYBACKING OF THE MASTER CONTINUING PROFESSIONAL CONSULTING AGREEMENT FOR ARCHITECTURAL, ENGINEERING, PLANNING, AND VARIOUS CONSULTING PROFESSIONAL SERVICES BETWEEN THE CITY OF LAKE ALFRED, FLORIDA AND CONSULTANT; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND EXECUTE ALL OF THE AGREEMENTS AND TASK ORDER(S) WITH ROBERT A. STEVENS & ASSOCIATES, INC., APPROVED AND/OR CONTEMPLATED HEREIN; PROVIDING FOR CONFLICTS, SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, pursuant to Section 2-159 of the Code of Ordinances of the Town of Dundee, Florida (hereafter the "Code"), which is entitled *source selection*, nothing prohibits the Town from renewing purchase order(s) or contract(s) provided the vendor was originally selected through a competitive selection process and such renewal is within the scope of the original purchase order and/or contract; and

WHEREAS, Section 287.055, Florida Statutes, known commonly as the "Consultants' Competitive Negotiation Act" or "CCNA," is statutory law requiring adherence to certain protocols such as "competitive selection" and "competitive negotiation" in the procurement of professional services encompassing architecture, professional engineering, landscape architecture, or registered surveying and mapping within the contemplated price thresholds as set forth in the CCNA; and

WHEREAS, the Town requires professional consulting services in furtherance of ongoing and continuous projects; and

WHEREAS, the City of Lake Alfred, Florida, has previously elected to conduct a CCNA “competitive selection” process in order to identify candidates for professional consulting services for professional services continuing contract(s); and

WHEREAS, a true and correct copy of the “Request For Qualifications, Continuing Professional Consulting Services Contracts” and Addenda (hereafter the “RFQ”), which was issued by the City of Lake Alfred, Florida, in accordance with Section 287.055, Florida Statutes, is attached hereto as **Composite Exhibit “A”** and by reference made a part of this Resolution; and

WHEREAS, the documents regarding the City of Lake Alfred, Florida, CCNA “competitive selection” protocol(s) are set forth in the RFQ (see **Composite Exhibit “A”**); and

WHEREAS, on October 29, 2023, pursuant to the requirements set forth in Chapter 287, Florida Statutes, the City of Lake Alfred, Florida, advertised a legal notice seeking written proposals from all qualified firms and individuals interested in providing professional consulting services; and

WHEREAS, a copy of the legal notice is attached hereto as **Exhibit “B”** and made a part hereof by reference; and

WHEREAS, the text of the October 29, 2023 legal notice (see **Exhibit “B”**) is substantially the same as would be utilized by the Town of Dundee, Florida, to publicly announce Dundee’s need for professional consulting services and is therefore adopted by the Town Commission of the Town of Dundee as that notice required in accordance with Section 287.055(3), Florida Statutes; and

WHEREAS, on or before December 7, 2023, in response to the October 29, 2023 legal notice, Robert A. Stevens & Associates, Inc., submitted its RFQ Response for Land Surveying & Mapping, Aerial Sensing Surveying & Mapping, GIS Services, and Consulting Services (hereafter the “Response”); and

WHEREAS, a copy of the Response is attached hereto as **Exhibit “C”** and made a part hereof by reference; and

WHEREAS, on December 7, 2023, the City of Lake Alfred, Florida, engaged in a selection process whereby it received responses and statement of qualification(s) from thirteen (13) consultants, reviewed responses and statement(s) of qualification, and submitted the recommended list of consultants for professional continuing service contractual agreements to the City Commission for approval; and

WHEREAS, the process and procedure(s) utilized by the City of Lake Alfred staff are substantially the same as would be utilized by the Town in order to adhere and/or comply with the “competitive selection” protocol required by the CCNA and are thus adopted by the Town

Commission of the Town of Dundee as the “competitive selection” protocol required in accordance with Section 287.055(4), Florida Statutes; and

WHEREAS, the Town Commission of the Town of Dundee has no reason to believe that the public was excluded from the process utilized by the City of Lake Alfred for “competitive selection” in violation of Section 287.055(3)(e), Florida Statutes, and therefore finds that the “competitive selection” protocol used by the City of Lake Alfred was open to the public as required Florida law; and

WHEREAS, on February 5, 2024, the City Commission of the City of Lake Alfred approved a selection of firms for professional continuing services and named Robert A. Stevens & Associates, Inc., as the consultant selected for professional engineering consulting services, amongst others, and further directed, pursuant to “competitive negotiations,” approval of a continuing contract with Robert A. Stevens & Associates, Inc. (hereafter the “Continuing Contract”); and

WHEREAS, copies of the City of Lake Alfred, City Commission Agenda and official minutes of and/or for the February 5, 2024, City of Lake Alfred, City Commission meeting are attached hereto as **Composite Exhibit “D”** and made a part of this Resolution by reference; and

WHEREAS, a copy of the Continuing Contract is attached hereto as **Exhibit “E”** and made a part hereof by reference; and

WHEREAS, the selection and approval of Robert A. Stevens & Associates, Inc., as the consultant selected for professional consulting services, pursuant to “competitive negotiations,” by the City of Lake Alfred, Florida, is substantially the same as would be approved by the Town, and the Town Commission of the Town of Dundee thus adopts the selection of Robert A. Stevens & Associates, Inc., as the consultant selected for professional consulting services as more particularly identified herein; and

WHEREAS, based on the Town Commission’s adoption of the “competitive selection” protocol conducted by the City of Lake Alfred (see attached **Composite Exhibit “A”**), the Town Commission therefore finds that Robert A. Stevens & Associates, Inc., based on its Response (see attached **Exhibit “C”**), is the most qualified firm to provide certain professional consulting services to the Town of Dundee for its ongoing and continuous projects as more particularly identified herein; and

WHEREAS, the Town Commission finds that this Resolution is authorized pursuant to its home rule authority as secured by Article VII, §2(b) of the Florida Constitution, Section 166.021 of the Florida Statutes, the general law of state preemption as announced in Florida League of Cities, Inc. v. Department of Ins. and Treasurer, 540 So. 2d 850 (Fla. 1st DCA 1989), and the general law on the “piggybacking” of other governmental entities’ performance and procurement prerequisites as found in Accela, Inc. v. Sarasota County, 993 So. 2d 1035 (Fla. 2d DCA 2008); and

WHEREAS, the Town Commission finds that there is a bona fide public need for the timely completion of professional surveying and GIS consulting services, thus necessitating its adoption of the RFQ and City of Lake Alfred “competitive selection” protocols, evaluation, and ranking(s); and

WHEREAS, the Town Commission desires to piggyback the Lake Alfred Agreement (see **Exhibit “E”**); and, in light of jurisdictional differences and current applicable Florida law, the Town and Robert A. Stevens & Associates, Inc., are amenable to entering into a *First Amendment to the Agreement For Purchase of Sodium Hypochlorite* (hereafter the “Amendment”);

WHEREAS, a copy of the Amendment is attached hereto as **Exhibit “F”** and by reference made a part of this *Resolution No. 25-01*; and

WHEREAS, it is the intent of the Town Commission that this Resolution should be construed deferentially in favor of Dundee’s home rule powers and that the Town Commission’s decision to adopt the City of Lake Alfred protocol(s), evaluation(s), ranking(s), selection and agreement(s) is legislative in nature; and

WHEREAS, it is the express intent of the Town Commission that this Resolution be construed to be enacted because the CCNA does not preempt local law(s) in the area of professional services procurement, based on the limited set of factual circumstances as mentioned herein; and

WHEREAS, the Town Commission directs and authorizes the Town Manager to engage in “competitive negotiation” and enter into any agreement(s) with Robert A. Stevens & Associates, Inc., as contemplated herein and required by Florida law (see **Exhibit “F”**).

WHEREAS, it is in the best interests of the citizens and residents of the Town of Dundee, Florida, and in furtherance of the health, safety and welfare of the citizens and residents of the Town to adopt the City of Lake Alfred *CCNA competitive sealed bid process(es) and bid award* to Robert A. Stevens & Associates, Inc., (see **Exhibits “A – E”**) and, in light of jurisdictional differences and current applicable Florida law, negotiate and enter into the Amendment (see **Exhibit “F”**) with Robert A. Stevens & Associates, Inc.; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Resolution No. 25-01** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Resolution No. 25-01** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA:

Section 1: Incorporation of Factual Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this **Resolution No. 25-01** and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this **Resolution No. 25-01**.

Section 2: Authority and Adoption.

The Town of Dundee, pursuant to its home rule authority as secured by Article VII, §2(b) of the Florida Constitution and Section 166.021 of the Florida Statutes, formally adopts the City of Lake Alfred’s “competitive selection” process, protocol, rankings, findings and approvals attached hereto as **Exhibits “A” through “E”** in response to the City of Lake Alfred “Request for Qualifications, RFQ 23/24-01” as the “competitive selection” required by Sections 287.055(3) and 287.055(4) of the Florida Statutes and made a part hereof by reference; and, in light of jurisdictional differences and current applicable Florida law, the Town Commission of the Town of Dundee, Florida, also adopts the Amendment attached hereto as **Exhibit “F”** and made a part hereof by reference.

Section 3: Town Manager Authorization.

The Town Manager, or her/his designee, is hereby authorized to take any and all necessary further action(s) to effectuate the intent of this **Resolution No. 25-01** which includes, but shall not be limited to, the negotiation, execution, and implementation of the agreement(s) approved herein. Further, the Town Manager or her/his designee, and all appropriate Town Officials are authorized to execute on behalf of the Town of Dundee, Florida, the Amendment with Robert A. Stevens & Associates, Inc., which is attached hereto as **Exhibit “F”** and made a part hereof by reference, and take all other necessary actions related to the referenced Amendment as well as any further agreements which may be necessitated by the matters approved by the Town Commission.

Section 4: Conflicts.

All resolutions in conflict with this **Resolution No. 25-01** are repealed to the extent necessary to give this **Resolution No. 25-01** full force and effect.

Section 5: Severability.

The provisions of this **Resolution No. 25-01** are severable. If any word, sentence, clause, phrase or provision of this **Resolution No. 25-01**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-01**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-01** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional,

then all remaining provisions and portions of this **Resolution No. 25-01** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-01** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-01**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-01**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6: Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this **Resolution No. 25-01** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and sections of this **Resolution No. 25-01** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 7: Effective Date.

This **Resolution No. 25-01** will take effect immediately upon its passage by the Town Commission of the Town of Dundee, Florida.

READ, PASSED AND ADOPTED at a duly called meeting of the Town Commission of the Town of Dundee, Florida assembled on the 14th day of January, 2025.

TOWN OF DUNDEE

Samuel Pennant, Mayor

ATTEST WITH SEAL:

Melissa Glogowski, Town Clerk

Approved as to form:

Frederick J. Murphy, Jr., Town Attorney