



# **City of Madeira Beach**

## **Request for Qualifications RFQ**

**No.** TBD

**Continuing Engineering Consultant and Urban  
Design Services**

**Due by 3:00 pm TBD  
City Hall  
300 Municipal Drive  
Madeira Beach, Florida 33708**

**Request for Qualifications  
For  
Continuing Engineering Consultant and Urban Design Services**

**1.PURPOSE & INTRODUCTION**

The purpose of this Request for Qualifications (RFQ) is for The City of Madeira Beach to receive responses from qualified firms capable of providing Engineering Services for public works projects and firms capable of providing Consulting Services for assistance with various planning efforts pursuant to, and in compliance with, the requirements of F.S. 287.055.

The city will be selecting **up to two** (2) firms to serve as Engineer of Record for a three (3) year term with two (2) one year extension options. The consulting firm shall assist the City towards solutions to engineering problems and designate the approach or technique to be used towards accomplishment of the City's objective for each project or assignment. The firm's services may include, but not be limited to, planning, design, surveys, reviews, construction specifications, construction observation, and permitting. Consulting firms may also be asked to provide engineers for emergency inspections following a natural disaster.

**Engineering Firms must demonstrate in-house competence in the following areas:**

- Roadway Design
- Stormwater Drainage and Inspection (with coastal communities)
- Pavement Management
- Landscape Architectural Services
- Park Design (active, passive and coastal)
- NPDES Services (including field inspection services)
- Water Quality Monitoring
- Stormwater Utility Services
- FDOT, FDEP, USACE, and SWFWMD
- FEMA Hazard Mitigation Grant Contract/Construction Administration

**Engineering Firms Team must demonstrate competence in the following areas:**

- Structural Engineering
- Architectural Services
- Bridge Inspection and Design
- Surveying
- Construction Engineering and Inspection (CEI)
- Geographic Information Systems Programming
- FDOT Local Agency Program (LAP) Projects

**General Engineering Services to include (but not limited to) design and consultation services for the following upcoming projects:**

- Roadway Rehabilitation and Reconstruction
- Roadway Design
- Sidewalk and Curb Construction
- Parks and Parkway Improvements
- Lift Station Rehabilitation
- Sanitary Sewer Pipe Installations
- Bridge Repairs
- Roof Replacements/Repairs

- Stormwater Improvements
- Reclaimed Water Pipe & Service Line Replacements
- Seawall Repairs and Reconstruction
- Facility Design and Commissioning
- Environmental Assessments
- Structural Analysis
- Plan Review
- FDEP NPDES MS4 Permit Services
- Marina Facilities
- Rate Studies for City Provided Services
- FEMA Hazard Mitigation Grant Administration

Additional services may include, but are not limited to community outreach, multimodal planning, urban/landscape design, architectural renderings, design guidelines, comprehensive planning, impact fee structures, transportation planning, economic development, “green” initiatives, and land development code amendments. The following accreditations of each firm’s employees or sub-consultants are highly desirable: AICP, AIA, ASLA, or LEED certified professionals.

**Consultant Team Firms should also illustrate experience with some or all the following projects:**

- Multimodal design: public and private realm design graphics for pedestrian, bicycle, transit, and vehicular use; Street-level renderings and visuals; Land Development code amendments that support multimodal design.
  - “Smart code” calibration or form-based code writing.
- Multimodal transportation districts (data and analysis, technical report, comprehensive plan amendment).
  - Transportation modeling.
- Reviewing traffic studies submitted as part of site plan approval.
- Impact fee studies.
- Urban design and design guidelines.
- Assistance with planning-related public outreach and workshops, including but not limited to design charrettes.
- Analysis of planning data.
- “Green” (LEED or FGBC) site design standards, land development code regulations

The selected consulting firm(s) will be working on an as-needed basis, and this contract does not guarantee the selected consultant(s) a minimum number of projects. The City reserves the right to issue separate contracts for specific services at the city’s sole discretion.

## **2. CALENDER OF EVENTS**

- Request for Qualifications (RFQ) release: September 17 , 2018 TBD
- RFQ submittal date, no later than 3:00 PM: October 1, 2018 TBD
- Evaluation committee review: October 2, 2018 TBD
- Evaluation committee recommendation: October 2, 2018 TBD
- Interviews (**if necessary**): October 5, 2018 TBD
- Selection/recommendation to Commissioners for award: November 5, 2018 TBD

### 3. QUALIFICATIONS

Statements of Qualifications will be considered from firms normally engaged in implementing the service requested. The responding firm shall present their statement of qualifications as outlined in the submission of submittals section of this document. Respondents must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to the City of Madeira Beach. The City reserves the right, before recommending any award, to inspect the facilities and organization or to take any other action necessary to determine ability to perform in accordance with the specifications, terms, and conditions of the Contract. The City of Madeira Beach will determine whether the evidence of the ability to perform is satisfactory and reserves the right to reject all Statements of Qualifications where evidence submitted, or investigation and evaluation, indicates inability of a firm to perform.

### 4.SUBMISSION OF SUBMITTALS

The purpose of this section is to provide information related to the qualifications of interested firms to perform the service requested herein. Response to all subsets of this section is mandatory. Failure to provide the requested information may result in the Statement firm's submission being deemed non-responsive. A non-responsive submittal will not receive further consideration. Upon submission, all submittals become the property of the City of Madeira Beach and are subject to public records laws. All expenses, including travel expenses for interviews, incurred in the preparation of the submittal shall be borne by the Respondent.

**The following information shall be provided in the order detailed:**

- a. **Title Page** - List the RFQ subject, the name of the firm, local address, telephone number, name of contact person and date, e-mail address of contact person.
- b. **Table of Contents** – Include a clear identification of the material included in the submittal by page number.
- c. **Letter of Interest** – Limit one (1) page. Make a positive commitment to perform the required work. Also provide the name(s) of the person(s) who will be authorized to make representation for your firm, their title, telephone number, and e-mail address.
- d. **Project Specific Statement of Qualifications and Profile of Firm** – Limit eight (8) pages. State the size of staff, number of registered professionals and overall experience of the assigned staff for this assignment. Include technical background, experience information, and other applicable data on proposed personnel and any proposed sub-consultants. Include an organizational chart of project team and describe communication processes to be used within the project team. Give the location of the office from which the work is to be done.
- e. **Services Approach** – Limit six (6) pages. Include a general synopsis of the firm's approach and understanding of the work required. Include the firm's Quality Assurance Control program or policy.
- f. **References** - Limit ten (10) pages. Provide information for those projects which have been successfully completed which are like those required under this assignment. Please include projects recently completed within the last five (5) years. Additionally, document that the respondent has been awarded and provided services for five (5) contracts to other local governments similar to this contract within the last five (5) years.
  - o References shall include:
    - o Client name, address, phone number, e-mail address.
    - o Description of the scope of the work.
    - o Month and Year the project was started and completed.
    - o Total cost and professional service fees paid.

- Role of the firm and the responsibilities.
- g. **Insurance Requirements** – Provide proof of insurance in accordance with insurance requirements section included in this RFQ.

*Attachments (additional exhibits) to the proposal are acceptable; however, any attachments provided do not take the place of the written proposal requirements as listed above. Full resumes are to be attached as exhibits to the proposal.*

## 5. CONTACT INFORMATION

Please direct all technical inquiries concerning this Request for Qualifications in writing to the following City representative. Questions must be submitted by (5) days prior to the proposal due date.

Megan Wepfer  
Madeira Beach Public Works Director  
300 Municipal Dr.  
Madeira Beach, Florida 33708  
Phone: (727) 391-9951 Ext 401  
E-Mail: [mwepfer@madeirabeachfl.gov](mailto:mwepfer@madeirabeachfl.gov)

## 6. SUBMITTAL PROCEDURES:

Firms shall submit four (4) original submittal, four (4) copies and one electronic copy (USB- PDF Format). Responses must be submitted by the date and time indicated below. Statements of Qualifications not submitted by that time will be refused. Statements of Qualifications shall not be valid unless sealed in a single envelope or box marked:

“Continuing Engineering Consultant and Urban Design Services” and received by:

City of Madeira Beach City Clerk’s Office  
300 Municipal Drive  
Madeira Beach, FL 33708

Request for Qualifications will be received until 3:00PM on Thursday, January 31<sup>st</sup>, 2013, at the office of the City Clerk, City of Madeira Beach, Florida 33708. TBD

## 7. EVALUATION AND SELECTION OF CONSULTANT

A City review team will evaluate each firm's submission based upon the criteria stated in this Request for Qualifications and the ability to execute the services. The top firms may be invited to make oral presentations of their proposals to the evaluation team. Following the evaluation process, the team will then select the firms that the city considers most qualified. The successful Firm(s) will be requested to enter negotiations to produce a contract for this assignment. The City reserves the right to negotiate modifications to Statements of Qualifications that it deems acceptable. The City reserves the right to terminate negotiations in the event it deems the progress towards a contract to be insufficient.

Firms will be evaluated in accordance with the weighted criteria listed below. All criteria will be graded on a 1-5 scale, with 1 being the lowest score possible and 5 being the highest score. Criteria will also be weighted based upon each individual reviewer's determination of level of importance. Criteria will be weighted on a 1-10 scale, with 1 being not as important and 10 being the most important criteria.

**Selection Criteria are as follows:**

- Qualification of the Project Team
- Qualification of Prime Consultants designated Project Manager
- Qualification of Prime Consultants designated Project Professional Engineer
- Qualifications of the Sub-Consultants
  - Firm's Experience Working on Public Works Projects (Streets, Sidewalks, Curbs, Sanitary, Storm, Reclaimed, Buildings, Parks, Seawalls)
- Quality Assurance Control Program/Policy
- Applicable Project References that reflect and demonstrate the Firm's competence in the design/engineering focuses requested by the city
- Applicable Contract References that reflect and demonstrate the Firm's past performance on other local government contracts
- Consultants demonstrated understanding of the City of Madeira Beach's infrastructure
- Location of Firm

## **8. CITY RESERVES THE RIGHT TO REJECT ALL BIDS**

The City reserves the right to reject all submittals, or any part of any submittal, to waive any irregularities or informalities in any submittal, and to accept that submittal which is deemed to be in the best interest of the City. The City of Madeira Beach reserves the right to establish additional contracts that may be similar in nature to any contract resulting for this Request for Qualifications as best serves the needs of the City.

## **9. DESIGNATED CONTACT**

The awarded firm shall appoint a person to act as a primary contact with the City. This person or back-up shall be readily available during normal working hours by phone or in person and shall be knowledgeable of the terms of the Contract.

## **10. INSURANCE REQUIREMENTS**

Include in Qualifications proof of Insurance furnished by the firm's carrier to guarantee the engineering firm is insured.

The awarded firm must file with the City of Madeira Beach certificates of insurance prior to commencement of work evidencing the City as a certificate holder as additionally insured with the following minimum coverage:

Public and Commercial Liability Insurance not less than \$1,000,000.00.

Comprehensive General Liability Insurance of \$1,000,000.00 each occurrence.

Personal Injury for \$1,000,000.00 each occurrence.

Owner's and Consultant's Protective Liability.

- Bodily injury liability \$1,000,000.00 each occurrence
- Property damage liability \$1,000,000.00 each occurrence

- Full Workers Comprehensive Insurance required by Florida Law for all people employed by the contractor to perform work on this project

Automotive Liability (covering the operation, maintenance and all owned, non-owned and hired vehicles).

- Bodily injury liability \$1,000,000.00 each occurrence
- Property damage liability \$1,000,000.00 each occurrence

## **11. INDEMNIFICATION**

The Respondent shall hold harmless the City, its officers, and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Respondent and any persons employed or utilized by the Respondent in the performance of the Contract.

## **12. ASSURANCES**

The responding firm shall provide a statement of assurance that the firm is not presently in violations of any statutes or regulatory rules that might have an impact on the firm's operations. All applicable laws and regulations of the State of Florida and ordinances and regulations of the City of Madeira Beach will apply.

## **13. PROJECT RECORDS**

The awarded firm shall maintain auditable records concerning the procurement to account for all receipts and expenditures, and to document compliance with the Contract and Florida Statutes chapter 119. These records shall be kept in accordance with generally accepted accounting methods, and the City of Madeira Beach reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for three (3) years after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Public Disclosure Statutes.

Upon completion of the project, all reports, studies, recommendations, forms, and other project specific information will need to be submitted in paper and in an electronic file format (.PDF, .JPEG) on CD or USB storage device.

## **14. DEVIATIONS FROM SPECIFICATIONS**

Respondents shall clearly indicate, as applicable, all areas in which the items/services he/she proposes do not fully comply with the requirements of this submittal. The decision as to whether an item fully complies with the stated requirements rests solely with the city.

## **15. NO COLLUSION**

By offering a submission to this Request for Qualifications, the responder certifies that no attempt has been made or will be made by the responder to induce any other person or firm to submit or not to submit a submission for the purpose of restricting competition. The only person(s) or principals(s) interested in this submission are named therein and that no person other than those therein mentioned has/have any interest in this submission or in agreement to be entered. Any prospective firm should make an affirmative statement in its proposals to the effect that, to its knowledge, its retention would not result in a conflict of interest with any party.

## **16. TERMINATION**

The resulting contract may be canceled by the City when:

- a. When sufficient funds are not available to continue its full and faithful performance of this contract.
- b. Sub-standard or non-performance of contract.
- c. The City wishes to terminate at any time and for any reason, upon giving thirty (30) days prior written notice to the other party.

The resulting contract may be canceled by either party in the event of substantial failure to perform in accordance with the terms by the other party through no fault of the terminating party.

## **17. SUBMITTAL WITHDRAWAL**

After submittals are opened, corrections or modifications to submittals are not permitted, but a respondent may be permitted to withdraw an erroneous submittal prior to the award by the City Commission, if the following is established:

- a. That the respondent acted in good faith in submitting the submittal.
- b. That in preparing the submittal there was an error of such magnitude that enforcement of the submittal would work severe hardship upon the respondent.
- c. That the error was not the result of gross negligence or willful inattention on the part of the respondent.
- d. That the error was discovered and communicated to the City within twenty-four (24) hours of submittal opening, along with a request for permission to withdraw the submittal; or
- e. The respondent submits documentation and an explanation of how the error was made.

## **18. TAXES, FEES, CODES, LICENSING**

The Consultant shall be responsible for payment of all required permits, licenses, taxes, or fees associated with the project. The Consultant shall also be responsible for compliance with all applicable codes, laws, and regulations.

## **19. COMPLIANCE WITH ALL APPLICABLE LAWS**

Respondents shall comply with all applicable local, state, and federal laws and codes.

## **20. ATTACHMENTS**

**Design Services Agreement** CONSULTANT shall provide CITY consulting, engineering, or design services in accordance with this Agreement

**Florida Public Entity Crimes Act** Prior to, and during the term of any contract with the City, the City requires that CONSULTANT shall comply with The Florida Public Entity Crimes Act, §287.133, Fla. Stat. All Proposals and contracts shall include a complete and sworn statement pursuant to §287.133(3)(a), Fla. Stat., attached hereto as Exhibit A.

**Drug Free Workplace Certification** CONSULTANT shall include a signed and completed Drug Free Workplace Certification, attached hereto as Exhibit B.



### **DESIGN SERVICES AGREEMENT**

**THIS AGREEMENT** is hereby made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the CITY OF MADEIRA BEACH, FLORIDA, (hereinafter referred to as “CITY”), and \_\_\_\_\_, a Florida Corporation (hereinafter referred to as “CONSULTANT”).

**WHEREAS**, CITY desires to engage a firm to provide professional consulting, engineering OR design services for the project hereafter described;

**WHEREAS**, CITY desires to engage CONSULTANT to provide consulting, engineering and design services upon the Scope of Services to be issued subsequent to the execution of this agreement;

**WHEREAS**, CONSULTANT is qualified and able to provide the services described herein;

**WHEREAS**, this agreement has been properly approved by the appropriate authority for CITY and CONSULTANT.

**NOW, THEREFORE**, for an in consideration of the premises, the mutual covenants hereinafter recited, and for other good, valuable, and sufficient consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

## **ARTICLE 1 - PROJECT**

### **1.1 PROJECT**

CONSULTANT shall provide CITY consulting, engineering, or design services in accordance with this

Agreement and as more particularly described in the Scope of Services hereafter issued to CONSULTANT by CITY in accordance herewith (hereinafter "SERVICES"). The SERVICES shall be provided for the project more particularly described in the Scope of Services hereafter issued to CONSULTANT by CITY in accordance herewith.

### **1.2 PROJECT TERM AND PARAMETERS**

1.2.1 CONSULTANT shall serve as the CITY's Engineer of Record for a three (3) year term with two (2) one year extension options. 1.2.2. The consulting firm shall assist the City towards solutions to engineering problems and designate the approach or technique to be used towards accomplishment of the City's objective for each project or assignment. The firm's services may include, but not be limited to, planning, design, surveys, reviews, construction specifications, construction observation, and permitting. Consulting firms may also be asked to provide engineers for emergency inspections following a natural disaster.

1.2.3 Each individual engineering PROJECT may be competitively bid in phases or on a specific engineering project basis. The budget for each phase of the PROJECT shall be as set forth in the Scope of Services for each phase of the PROJECT executed pursuant hereto. CONSULTANT acknowledges that the PROJECT is publicly funded and budgeted and that fiscal constraints may cause CITY to change the scope or size of the PROJECT, or any phase thereof, or terminate the PROJECT in its entirety. If the PROJECT is adjusted,

CONSULTANT'S compensation shall be adjusted as provided herein. CONSULTANT shall designate, in writing, a representative to act for CONSULTANT on the PROJECT, to receive notices and communications from CITY. Additional representatives may be designated in a Scope of Services to have primary responsibility for any particular phase of the PROJECT, but the PROJECT representative shall have primary overall responsibility for the PROJECT.

## **ARTICLE II - SERVICES**

### **2.1 SCOPE OF SERVICES**

2.1.1 CONSULTANT shall provide overall concept plans, architectural designs, drawings, specifications, review, advice, mapping, planning, landscape architecture, environmental services, engineering designs, construction phase services, construction inspections, and public input services relative to the PROJECT in accordance with the applicable Scope of Services set forth below.

**Engineering Firms must have demonstrated In-house competence in the following areas:**

- Roadway Design
- Stormwater Drainage and Inspection (with coastal communities)
- Pavement Management

- Landscape Architectural Services
- Park Design (active, passive, and coastal)
- NPDES Services (including field inspection services)
- Water Quality Monitoring
- Stormwater Utility Services
- FDOT, FDEP, USACE, and SWFWMD
- FEMA Hazard Mitigation Grant Contract/Construction Administration
- FEMA and Floodplain Code and Ordinance Compliance

**Engineering Firms Team must have demonstrated competence in the following areas:**

- Structural Engineering
- Architectural Services
- Bridge Inspection and Design
- Surveying
- Construction Engineering and Inspection (CEI)
- Geographic Information Systems Programming
- FDOT Local Agency Program (LAP) Projects

**General Engineering Services to include (but not limited to) design and consultation services for the following upcoming projects:**

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- Roadway design
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- Bridge Repairs
- Roof Replacements/Repairs
- Stormwater Improvements
- Reclaimed Water Pipe & Service Line Replacements
- Seawall Repairs and Reconstruction
- Facility design and commissioning
- Environmental Assessments
- Structural Analysis

- Plan Review
- FDEP NPDES MS4 permit services
- Marina Facilities
- Rate Studies for City provided services
- FEMA Hazard Mitigation Grant Administration

**Additional services may include, but are not limited to some or all the following projects:**

- Multimodal design: public and private realm design graphics for pedestrian, bicycle, transit, and vehicular use; Street-level renderings and visuals; Land Development code amendments that support multimodal design.
- “Smart code” preparation, calibration or form-based code writing.
- Multimodal transportation districts (data and analysis, technical report, comprehensive plan amendment).
  - Transportation modeling.
- Reviewing traffic studies submitted as part of site plan approval.
- Impact fee studies.
- Urban design and design guidelines.
- Assistance with planning-related public outreach and workshops, including but not limited to design charrettes.
- Analysis of planning data.
- “Green” (LEED or FGBC) site design standards, land development code regulations

**2.1.2** - The consulting firm(s) will be working on an as-needed basis, and this contract does not guarantee the selected consultant(s) a minimum number of projects.

**2.1.3** - The City reserves the right to issue separate contracts for specific services at the city’s sole discretion

**2.1.4** - The following accreditations of each firm’s employees or sub-consultants are highly desirable: AICP, AIA, ASLA, or LEED certified professionals.

**2.1.5** - The selected consulting firm(s) will be working on an as-needed basis, and this contract does not guarantee the selected consultant(s) a minimum number of projects.

**2.1.6** - The City reserves the right to issue separate contracts for specific services at the city’s sole discretion.

**2.1.7** - One or more Scope of Services for SERVICES on the various phases of the PROJECT shall be submitted by CONSULTANT, and upon written approval by CITY, shall be incorporated herein.

**2.1.8** - The SERVICES shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work, in accordance with the Work Schedule incorporated within the Scope of Services.

## **2.2 PROJECT STUDY AND DESIGN SERVICES**

As specifically authorized by a Scope of Services approved by CITY in writing, CONSULTANT shall perform the following services:

2.2.1 CONSULTANT shall conduct planning, engineering, field testing, investigations, and studies, and prepare engineering reports and cost estimates, pertaining to the PROJECT. CONSULTANT shall prepare the detailed design for any phase of the PROJECT that has been approved by CITY. The detailed design shall include detailed construction drawings, specifications, and contract documents suitable for inviting construction bids for each phase of the PROJECT. The SERVICES shall include the preparation of an estimate of probable cost of construction based upon completed construction plans. One (1) set of reproducible drawings and an electronic version and the number of complete sets of drawings, specifications and contract documents set forth in the Scope of Services shall be submitted to CITY by CONSULTANT for each phase of the PROJECT. When CADD software is used on the PROJECT, CONSULTANT shall submit a copy of all drawing files on computer disc or CD ROM, as specified by CITY, in addition to the reproducible drawings.

2.2.2 CONSULTANT shall prepare, when requested by CITY, Design Reports for Immediate Action Improvements. Immediate Action Improvements shall include phases of a smaller nature with minimal construction costs, as outlined in the Scope of Services. Such Design Reports shall set forth the design bases, criteria, assumptions, schematics, materials, description, and equipment evaluation and preliminary selection thereof, with capacities, and such other information and material as may be appropriate to thoroughly describe the intended design. Public participation shall be utilized as appropriate and identified in the Design Report. A minimum of one (1) copy of each Design Report shall be submitted to CITY's representative. CONSULTANT shall not proceed with detailed project design until such time as CITY approves the Design Reports for said Immediate Action Improvement.

2.2.3 CONSULTANT shall confer, as authorized, with officials of state, federal and local agencies having jurisdiction over the PROJECT, during the preparation of the drawings and specifications, and shall assist CITY in obtaining approval of the same and in obtaining required permits from and agreements with such agencies. CONSULTANT shall research the availability of, and obtain, existing records, reports, maps, plans, aerial photographs, surveys, and other data from other agencies for use on the PROJECT.

2.2.4 CONSULTANT shall review laws, codes and regulations applicable to the PROJECT, and shall incorporate all legal requirements, and requirements of government agencies having jurisdiction over the PROJECT, into the design thereof.

## **2.3 ENGINEER SERVICES**

As specifically authorized by the Scope of Services approved by CITY in writing, CONSULTANT shall perform the following services:

2.3.1 CONSULTANT shall furnish a chief resident engineer or construction observer for observation of construction, and assistants (including other field staff, related

office management and clerical staff) as may be needed. All of which shall be under the general direction and instruction of the CONSULTANT.

2.3.2. CONSULTANT shall arrange for and accompany CITY officials in partial payment and final payment inspections of the construction as may be authorized to ensure that the Work is completed as invoiced.

## **2.4 SCHEMATIC DESIGN**

2.4.1 CONSULTANT shall prepare Schematic Designs for review with CITY and other design professionals on the PROJECT, in accordance with the approved Scope of Services for the PROJECT. 2.4.2.

CONSULTANT shall work with CITY and the other design professionals on the PROJECT to define the PROJECT construction, improvement, and renovation, and to provide design assumptions, which facilitate preparation of an estimate of construction cost. CONSULTANT shall obtain CITY's approval prior to proceeding with Design Development.

## **2.5 DESIGN DEVELOPMENT**

2.5.1 CONSULTANT shall provide engineering design development documents for the PROJECT that shall include drawings and material specifications. Material specifications shall be in outline format. Design development drawings shall be submitted by CONSULTANT in accordance with the approved Scope of Services for the PROJECT.

2.5.2. CONSULTANT shall develop the Design Development documents in consultation with CITY, and in coordination with the other design professionals on the PROJECT to ensure coordination of PROJECT design, material quality and construction budget. At the close of the Design Development phase, CONSULTANT shall obtain CITY's approval prior to proceeding with construction documentation.

## **2.6 CONSTRUCTION DOCUMENTS**

2.6.1 CONSULTANT shall prepare engineering construction documents for the PROJECT, including all drawings and specifications reasonably required by normal industry practice to support the construction, in accordance with the approved Scope of Services for the PROJECT.

2.6.2 During the course of construction the contractor and/or Engineer shall keep at site a set of markup prints indicating changes from original drawings. Drawing will be available for review by Engineer. Mark-up prints shall be used by the Engineer to prepare two (2) sets of as-builts as record of all construction revisions. Two sets of as-built drawings will be provided to the City at no extra cost.

## **2.7 BIDDING**

2.7.1 CONSULTANT shall provide reproducible copies of Construction Documents, attend one (1) pre-bid meeting, provide efficient and prompt communications with all bidders, attend one (1) bid opening, and provide continuity of PROJECT management. The construction contract shall be on a form provided by CITY with

recommendations from CONSULTANT as to the content thereof. CONSULTANT shall provide bid documents to prospective bidders. CONSULTANT shall respond to questions from prospective bidders, as necessary.

2.7.2 If the budget for any phase of the PROJECT is exceeded by the lowest bona fide and qualified bidder, without further compensation to CONSULTANT, CITY shall:

2.7.2.1 provide written authorization for an increase in the budget;

2.7.2.2 authorize rebidding of the phase of the PROJECT, within a designated time period;

2.7.2.3 terminate that phase of the PROJECT; or

2.7.2.4 revise the scope of that phase of the PROJECT as required to reduce the cost of the work.

## **2.8 CONSTRUCTION ADMINISTRATION**

2.8.1 In no event shall CONSULTANT visit the site less than once a week. CONSULTANT shall report to CITY on the progress and quality of the work and whether such work is proceeding in accordance with the Contract Documents. Such reports shall be made to the City Manager or his/her designee of CITY on a weekly basis.

2.8.2 CONSULTANT shall provide construction administration services for the engineering aspects of the PROJECT. CONSULTANT shall maintain contractor compliance with the construction documents.

Construction administration services for this PROJECT shall include, without limitation:

2.8.2.1 Attend pre-construction meeting;

2.8.2.2 Attend weekly coordination meetings;

2.8.2.3 Review requisitions and change order proposals from the Contractor;

2.8.2.4 Make on-site visits to observe progress of construction and conformance to construction documents;

2.8.2.5 Provide response and clarification of field requests for information (RFIs); and

2.8.2.6 Process shop drawings submitted.

2.8.2.7 Collections of warranties, and operating manuals.

2.8.3 CONSULTANT shall provide payment administration services for the construction aspects of the PROJECT.

2.8.3.1 Review and approve applications and certificates for payments.

2.8.3.2 Processing of contractor's final payment

2.8.3.3 Collection of releases of liens.

## **2.9 AUTHORIZATION OF WORK**

2.9.1 All work to be performed by CONSULTANT under this Agreement shall first be authorized by CITY by written Scope of Services, pursuant to the following:

2.9.1.1 Authorizations approved by CITY shall contain a description of the Work to be undertaken. The authorization shall also contain a budget amount of the fee to be paid based upon the applicable method for calculating the fee, and such budget amount shall not be exceeded, unless prior written approval by CITY is obtained. The form and format of the budget shall be in sufficient detail so as to identify the various elements of cost and shall be subject to approval of CITY. A scope of services for all phases of the PROJECT shall be prepared by CONSULTANT and subject to written approval of CITY.

2.9.1.2 The authorization may contain additional instructions or provisions specific to the authorized Work for the purpose of expanding upon certain aspects of this Agreement pertinent to the Work to be undertaken. Such supplemental instructions or provisions shall not be construed as a modification of this

Agreement, except as to the specific projects to which such additional instructions or provisions pertain.

CONSULTANT shall not be entitled to compensation for any work performed by CONSULTANT without the necessary written authorization.

## **2.10 GENERAL SERVICES DURING CONSTRUCTION**

2.10.1 As may be specifically authorized by written Scope of Services, CONSULTANT shall:

2.10.1.1 Furnish general planning, environmental and engineering services during construction of phases of the PROJECT for which drawings, specifications and contract documents have been previously prepared by CONSULTANT or accepted by CONSULTANT as being suitable for use.

2.10.1.2 The SERVICES shall include advice and assistance, if required, to CITY in the receipt and analysis of bids and the award of construction contracts, advice and assistance during construction, preparation of such sketches as are needed to resolve actual field conditions, provide any field surveys and/or measurements related to the engineered project, review of shop drawings and working drawings submitted by the contractors, periodic observations of work in progress, review of cost estimates for payments to the contractors during the progress of and upon completion of the contracts, and observation of the final testing and final inspection of the completed Work.

2.10.1.3 Review materials and equipment submittals tendered by bidders and contractors when such submittals are alternatives to those specified or previously approved.

2.10.1.4 Review and report on claims for extra compensation or time extensions submitted by contractors.

2.10.1.5 When requested by CITY, prepare, and submit proposed contract change orders.



2.10.1.56 Prepare and submit monthly progress reports covering the general progress of the Work which describe construction activities, schedules, costs, and problems occurring during the period.

## **2.11 POST CONSTRUCTION**

2.11.1 CONSULTANT shall provide PROJECT closeout services, including walk-through service at the conclusion of the PROJECT build-out.

2.11.2 CONSULTANT shall obtain authority from any surety for the making of periodic or final payments to any contractor.

2.11.3 CONSULTANT shall provide two (2) sets of as-built drawings to the City.  
Sealed as-built drawings will be on both printed documents and digital format.

## **ARTICLE 3 – CITY**

### **RESPONSIBILITIES 3.1 COVENANTS BY CITY**

3.1.1 CITY shall:

3.1.1.1 Pay such fees as are due and payable to CONSULTANT, according to the schedule set forth in the Scope of Services for services authorized, in advance in writing, and properly performed.

3.1.1.2 Appoint a representative under this Agreement, with authority to authorize Work under this Agreement, transmit instructions, receive information, and transmit interpretations and definitions of the CITY'S policy and decisions pertinent to the Work covered by the applicable Scope of Services.

3.1.1.3 Make available, upon request of CONSULTANT, all existing records, reports, maps, plans, aerial photographs, surveys, or other data in CITY'S possession pertaining to the Work on the PROJECT under any Scope of Services authorized hereunder.

3.1.1.4 Make facilities and properties, under CITY'S control, available and accessible for inspection and access by CONSULTANT, for the performance of the Work hereunder.

3.1.1.5 Pay the publication costs for advertisements for qualified bidders for construction of the PROJECT, as budgeted.

3.1.1.6 Pay all permit fees required by agencies having jurisdiction over the PROJECT, unless otherwise agreed to by the parties.

3.1.1.7 Provide information concerning its objectives, schedule, constraints, budget with reasonable contingencies, and criteria for the PROJECT.

## **ARTICLE 4 - ADDITIONAL SERVICES**

4.1 The following shall not be included within the SERVICES provided by CONSULTANT, hereunder:

4.1.1 Soils engineering if required;

4.1.4 Design of telephone, intercom, or computer systems;

4.1.5 Payment of impact and permitting fees; and

4.1.6 Materials testing.

4.2 Services additional to the SERVICES shall be provided by CONSULTANT if authorized, in writing, by CITY.

4.3 CONSULTANT shall, when authorized by Scope of Services, in writing, by CITY from time to time:

4.3.1 Assist CITY and serve as technical representative in meetings, correspondence and other forums as required with adjacent jurisdictions, service providers, utility customers and franchise holders.

4.3.2 Make necessary field surveys (including easement plans and description) not otherwise provided by CITY.

4.3.3 Prepare necessary state and federal grant application forms; provide additional planning, environmental, engineering services, special plans and descriptions, as may be required to assist CITY in obtaining various permits and approvals for construction and operation; and prepare for and attend public meetings and hearings as may be authorized by CITY.

4.3.4 Furnish additional copies of drawings, specifications, contract documents, special drawings, reports, and similar documents.

4.3.5 Prepare a set of reproducible record drawings of the completed Work based upon marked-up prints, drawings and other data furnished by the contractor to CONSULTANT showing those changes made during the construction process.

4.3.6 Revise previously approved studies, reports, design, documents, drawings and specifications.

4.3.7 Prepare detailed renderings, exhibits or scale models of projects.

4.3.8 Furnish advice and assistance in the organization of an operation and maintenance staff, in the delegation of routine operating duties, in the organization of sampling and analyses, in the operating and testing of equipment, in the preparation of operating and laboratory report forms, in the adjustment of treatment processes for more efficient performance and assist in the operation of the facilities.

4.3.9 Prepare operation and maintenance manuals for the use of CITY personnel for selected projects; 4.3.10 Conduct investigation and prepare reports pertaining to operations, maintenance and overhead expenses; prepare rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations; prepare detailed quantity surveys of material and labor; and prepare material audits or inventories required for certification of force account construction performed by CITY.

4.3.11 Perform additional services resulting from projects involving more than one general construction contract, separate construction contracts for different building trades, or separate equipment contracts.

4.3.12 Perform additional services in connection with the rejection and re-bidding of construction projects.

4.3.13 Review a project prior to the expiration of the guarantee period and to report observed discrepancies under guarantees provided by the construction contract.

4.3.14 Perform additional services during construction made necessary by Work damaged by fire or other cause during construction, acceleration of the work schedule involving services beyond normal working hours, or contract default due to delinquency or insolvency.

4.3.15 Serve as an expert witness for CITY in any litigation or arbitration and to assist CITY in preparing for litigation or arbitration; and

4.3.16 Advise and assist in wholesale service agreements, service area establishment, capital improvement planning, planning services in accordance with Chapter 163, F.S., Comprehensive Planning Act requirements, Redevelopment Districts, Special Districts, or Target Areas, and other services as requested by CITY.

4.3.17 Perform contract administration and related report preparation, owner, contractor and intergovernmental/interagency communications, and file management for FEMA hazard mitigation grant projects.

#### **ARTICLE 5- PERSONNEL**

5.1 CONSULTANT'S professional personnel who shall be assigned to the PROJECT shall be as set forth in the Scope of Services for each phase of the PROJECT, as designated therein.

5.2 CONSULTANT shall be the primary consultant on the PROJECT, and the following sub-consultants shall perform SERVICES hereunder, without additional compensation by CITY:

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5.3 Any of the sub-consultants may be replaced, upon agreement of the parties. Any replacement or additional sub-consultants shall be subject to CITY'S approval.

#### **ARTICLE 6 -SCHEDULE**

6.1 CONSULTANT shall proceed with the SERVICES upon receipt of CITY'S signed authorization to proceed. Following the initial planning meeting with CITY and the other design professionals on the PROJECT, CONSULTANT shall prepare a master PROJECT schedule, on a task-by-task basis, including the analysis, design and documentation work to be accomplished. CONSULTANT shall submit for CITY'S approval a schedule for the performance of the SERVICES, which shall include allowances for periods of time required for CITY'S review and approval of submissions by authorities having jurisdiction over the PROJECT. Time limits established by the schedule approved by CITY shall not be exceeded by CONSULTANT. Time is of the essence in the performance of the SERVICES by CONSULTANT. The preliminary schedule shall be as provided in the Scope of Services for each phase of the PROJECT.

## **ARTICLE 7 – FEES AND COSTS**

### **7.1 PAYMENT FOR SERVICES**

7.1.1 CITY shall pay CONSULTANT for all services authorized and properly performed subject to the budget set out in the Scope of Services, by one of the following methods, as agreed in writing, in advance, by the parties:

7.1.1.1 A mutually agreed upon lump sum of \_\_\_\_\_; or 7.1.1.2

At the hourly rates as set forth in the attached rate sheet. Sub-consultant costs shall be invoiced at the actual fee paid by CONSULTANT; or

7.1.1.3. On a cost-plus multiplier of \_\_\_\_\_ based on direct salary costs times a factor of \_\_\_\_\_ as determined by agreement of the parties, where salary cost is actual salary and wages. Direct labor costs are based on the actual weekly compensation paid to personnel divided by 40 hours. The multiplier factor compensates for indirect salary costs, overhead operating costs, and profit allowance.

Sub-consultant fees shall be invoiced at the actual fees paid by CONSULTANT; or

7.1.1.4 Such other method or methods for calculating the fee as may be mutually agreed upon in advance by the parties hereto.

7.1.2 Reimbursable expenses shall be invoiced at the actual expenditures incurred by CONSULTANT as follows:

7.1.2.1 Expense of transportation and living when performing travel authorized in writing by City, for long distance calls and telegrams, and for any fees paid for securing approval of authorities having jurisdiction over the Scope of Services. CITY shall pay such fees, directly, when a price advantage is available.

Travel expenses shall be in accordance with CITY'S travel and per diem allowance schedule. Travel to CITY offices and work sites and telephone and other consultation with CITY shall not be reimbursable; and

7.1.2.2 Expenses for reproduction, postage and handling of drawings and specifications, except file copies, such copies as required to facilitate review and approval and copies provided to contractors in accordance with terms of a contract. Copies provided to prospective bidders shall be sold, directly, to the prospective bidders by CONSULTANT.

7.1.3 All fees shall be invoiced monthly and are due and payable monthly. The monthly amount due shall be determined as the costs are incurred for SERVICES performed using the multiplier or hourly method of compensation defined above, or in proportion of the work completed for services to be performed when a lump sum method of compensation is used, in accordance with the Scope of Services issued by CITY.

7.1.4 If during and after the completion of the drawings, specifications and contract documents described in this Agreement, in accordance with the directions of CITY, it becomes necessary to review or revise the drawings, specifications or contract documents due to changes in federal, state, or city law, rules, regulations or other requirements adopted after preparation thereof, payment for such review or revision shall be made to CONSULTANT according to such method or methods of calculating the fee as may be mutually agreed upon in advance, in writing. Other changes or revisions shall be made only upon written authorization of CITY directing such changes, review or revisions by CONSULTANT. SERVICES for such changes or revisions shall be paid for at a mutually agreed upon lump sum or at the rates of payment described above, as agreed in advance, in writing, by the parties.

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

## **ARTICLE 8 - MISCELLANEOUS**

### **8.1 TERMINATION**

8.1.1 Either party may terminate this Agreement, without cause, prior to the execution of any Scope of Services hereunder, or after completion of all Work required under any purchase orders previously issued hereunder.

8.1.2 CITY may suspend, cancel or abandon any part or phase of the PROJECT described in the Scope of Services, or the services of the CONSULTANT called for under the Scope of Services, without cause, upon providing CONSULTANT five (5) days prior written notice, and CONSULTANT shall be compensated for the professional services provided and reimbursable expenses incurred up to the date of suspension, cancellation or abandonment.

8.1.3 It is expressly understood by CONSULTANT that the PROJECT is contingent upon the availability of sufficient funding for the same, and the PROJECT may be reduced or enlarged in scope and the architectural services and payments provided hereunder may be adjusted accordingly, as determined by CITY in its sole discretion.

### **8.2 OWNERSHIP OF DOCUMENTS, MATERIALS**

8.2.1 Reproducible copies of all documents, including without limitation all reports, estimates, plans, drawings, exhibits, tests, specifications, and electronic record drawings, prepared for the PROJECT, shall be the property of CITY and shall be delivered to CITY upon completion of each said document. CITY may utilize any documents prepared by CONSULTANT or any sub-consultant hereunder in any manner it chooses, in its sole discretion, without being subject to any copyright protection.

8.2.2 All documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable

for reuse by others on extensions of the PROJECT or on any other project. Any reuse without written verification or adaptation by CONSULTANT for the specific purposes intended shall be at CITY'S sole risk. Any such verification or adaptation by CONSULTANT shall entitle CONSULTANT to further compensation at rates to be agreed upon by the parties.

8.2.3 Any equipment, materials or supplies for which CITY pays a specific charge under this Agreement shall become the property of CITY upon completion of the part or phase of the PROJECT for which the item was specifically purchased, but in no event later than termination of this Agreement.

## **8.3 PUBLIC RECORDS**

8.3.1 Contractor acknowledges that it is acting on behalf of a public agency; this Agreement is subject to the provisions of §119.0701, Florida Statutes, and that Contractor must comply with the public records laws of the State of Florida. CONSULTANT acknowledges that some or all the documents generated or kept by CONSULTANT, or any sub-consultant may be deemed to be public records under Florida law, and CONSULTANT fully accepts any responsibility required by law in producing or making available said documents.

8.3.2 Contractor shall comply with the following with regard to public records and agrees to the following:

8.3.2.1 The Contractor shall keep and maintain and not delete any and all public records required by the public agency and contractor necessary to perform the service.

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

8.3.2.3 The Contractor shall ensure that public records that are exempt or confidential and, therefore 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.

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

compatible with the information technology systems of the public agency.

- 8.3.2.5 A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the custodian of public records for the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the Contractor of the request. The Contractor must provide the records to the public agency or allow the records to be inspected, copied or photographed within a reasonable time and in compliance with the requirements of §119.07, Florida Statutes.
- 8.3.2.6 If Contractor does not comply with a public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.
- 8.3.2.7 A Contractor who fails to provide public records to the public agency within a reasonable time may be subject to penalties under §119.10, Florida Statutes.
- 8.3.2.8 If a civil action is filed against a Contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the Contractor the reasonable costs of enforcement, including reasonable attorney fees, if: The court determines that the Contractor unlawfully refused to comply with the public records request within a reasonable time, and; At least eight (8) business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Contractor has not complied with the request, to the public agency and to the Contractor.
- 8.3.2.9 The notice requirement is satisfied if written notice is sent to the public agency's custodian of public records and to the Contractor at the Contractor's address listed in this contract with the public agency or to the Contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- 8.3.2.10 A Contractor who fully, completely, and timely complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.
- 8.3.2.11 If the Contractor Has Questions Regarding the Application Of Chapter 119, Florida Statutes, To The Contractor's Duty To Provide Public Records Relating To This Contract, Contact The Custodian Of Public Records At:

City of Madeira Beach  
City Clerk Clara VanBlargan

## **8.4 WARRANTY, INSURANCE AND LIABILITY**

8.4.1 CONSULTANT warrants that the SERVICES shall be carefully, skillfully, and timely performed; in accordance with the standard for such professional services at the time those services are rendered.

8.4.2 Throughout the term of this Agreement and until the completion of all construction of the PROJECT, CONSULTANT shall carry liability insurance for injury or loss arising from comprehensive general and automobile exposures at a minimum of \$1,000,000.00 per individual, per occurrence, and professional liability insurance in an amount not less than \$1,000,000.00. CONSULTANT shall provide to CITY certificates of insurance evidencing the existence of each required insurance policy, within (30) days of the date of this Agreement. The certificates of insurances shall provide that CITY be notified at least (30) days prior to the cancellation or reduction in policy limits of the policy. Additional certificates of the insurance required hereby shall be provided by CONSULTANT at any time requested by CITY.

## **8.5 INDEMNIFICATION**

8.5.1 CONSULTANT shall indemnify, hold harmless, and defend CITY, its commission members,

officers, agents, attorneys, and employees from, and against all liability and expense, including attorney's fees incurred thereby through all appellate proceedings, arising from any claims, demands, damages, suits, administrative proceedings, actions and causes of action, in law or equity of whatever kind or nature, whatsoever for personal injuries, property damage, equitable relief, fines, penalties or other liability of any kind, resulting from the performance of the SERVICES hereunder. CONSULTANT'S liability hereunder shall include all attorneys' fees and costs incurred by CITY in the enforcement of this indemnification provision. The claims covered by this section shall include claims made by CONSULTANT'S employees, and CONSULTANT hereby waives its entitlement, if any, to immunity under Chapter 440, Florida Statutes

8.5.2 The obligations of the CONSULTANT under this section shall not be limited in any way by any immunity from or limitation of liability that the CITY may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes. The obligations under this section shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained by CONSULTANT under this Agreement.

8.5.3 CITY shall have the right, at its option, to participate in the defense of any third-party claim, without relieving CONSULTANT of any of its obligations hereunder. CONSULTANT shall obtain the prior written consent of CITY prior to entering any settlement of such claim.

8.5.4 Each party shall cooperate, and cause its agents, employees, and attorneys to cooperate, in the defense of any third-party claim, and shall furnish such records and



information, and attend such conferences, discovery proceedings, hearings, trials or appeals, as may be reasonably requested in connection therewith.

## **8.6 OTHER REQUIREMENTS**

8.6.1 Nothing contained herein guarantees CONSULTANT any amount of work or compensation. This Agreement shall not be considered an exclusive agreement, and CITY shall not be obligated to exclusively use the services of CONSULTANT for any project it undertakes.

8.6.2 This Agreement supersedes all prior negotiations and oral or written agreements heretofore made relating to the subject matter and constitutes the entire agreement of the parties relating to the subject matter hereof. This Agreement may not be altered or amended except in writing and signed by the parties hereto. No waiver of any of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be charged therewith. The failure to enforce any provision or part of this Agreement shall not constitute a waiver of the right to enforce any part or provision hereof, including the same part or provision in the future. If any portion or part of this agreement is declared invalid by a court of competent jurisdiction, the remainder hereof shall remain in full force and effect.

8.6.3 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

8.6.4 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto a) irrevocably submits itself to the exclusive jurisdiction and venue of the Circuit Court of the State of Florida, Pinellas County, and the jurisdiction of the United States District Court for the Middle District of Florida, Tampa Division, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Agreement; b) waives and agrees not to assert against any party hereto, by way of motion, as a defense or otherwise, in any suit, action or other proceeding, (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason whatsoever; and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any party hereto is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper.

8.6.5 This Agreement shall create no rights or claims whatsoever in any person other than a party hereto, except as provided herein. There shall be no third-party beneficiaries under this Agreement of any kind.

8.6.6 In the event either party employs an attorney to enforce any of the conditions of this Agreement, or to enforce any covenants hereunder, or to enforce any of the rights, remedies, privileges or options at law or in equity, or in any action between the parties, the prevailing party shall be entitled to reimbursement from the non prevailing party of all costs and expenses incurred or paid by the prevailing party in so doing, including without limitation, all attorneys' and paralegal fees and costs whether the matter is settled privately, by arbitration, or by legal action at the trial court level and at any and all appellate court levels in all matters of collection and enforcement, construction and interpretation, before, during and after suit, trial, post-trial and all appellate proceedings, as well as appearances in and connected with any bankruptcy proceedings or creditors' reorganization or similar proceedings.

8.6.7 If any construction bids received exceed CITY'S PROJECT budget, as the same may be adjusted, CONSULTANT shall reduce the scope of work, accordingly, and rebid the project without any additional fee to CITY.

8.6.8 All final plans and specifications shall be submitted to the City Commission of CITY for review and approval. All modifications of this agreement shall not be effective unless approved by the City Commission of CITY, in writing.

8.6.9 Any notices provided hereunder shall be sent to the parties at the following addresses and shall be considered properly delivered when placed in the U.S. mail, postage prepaid, certified return receipt requested:

As to CONSULTANT:

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

As to CITY:

City Manager & City Clerk  
City of Madeira Beach, Florida  
300 Municipal Dr.  
Madeira Beach, Florida 33706

8.6.10 Notwithstanding the use of the term "consultant" in this Agreement to describe CONSULTANT, CONSULTANT and all sub-consultants shall be deemed design professionals providing professional design services for the construction of improvements to real property, for all purposes.

8.7 FLORIDA PUBLIC ENTITY CRIMES ACT **Prior** to, and during the term of any contract with the City, the City requires that the CONSULTANT shall comply with The Florida Public Entity Crimes Act, §287.133, Fla. Stat. All Proposals and contracts shall include a complete and sworn statement pursuant to §287.133(3)(a), Fla. Stat., attached hereto as Exhibit A.

8.8 DRUG FREE WORKPLACE CERTIFICATION The CONSULTANT shall include a signed and completed Drug Free Workplace Certification, attached hereto as Exhibit B.

and completed Drug Free Workplace Certification, attached hereto as Exhibit B.

## **8.9 ACCEPTANCE OF CONTRACT:**

The parties agree that the prices, scope of work, terms and specifications set forth in this contract are satisfactory and are hereby accepted and agreed to by the City of Madeira Beach, Florida and Contractor upon signature of both parties, and upon signature of both parties the Contractor is authorized to do the work as specified in this agreement as agreed to by:

**CITY:**

Signature: \_\_\_\_\_

Date:

\_\_\_\_\_  
**City of Madeira Beach Florida**

**CONSULTANT\*:**

Signature: \_\_\_\_\_

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

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

For \_\_\_\_\_ (“Contractor”)

Mailing address:

\_\_\_\_\_

Email address:

\_\_\_\_\_

Phone:

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

**\*Consultant’s Signatory Requirements.** In the case of a corporation, this affidavit shall be executed by the corporate president. In the case of a partnership, this affidavit shall be executed by the general partner(s). In the case of a business entity other than a partnership or a corporation, this affidavit shall be executed by an authorized agent of the entity or the individual.

**EXHIBIT A**

**PUBLIC CONTRACTING AND ENVIRONMENTAL CRIMES**  
**CERTIFICATION**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to the CITY OF MADEIRA BEACH by \_\_\_\_\_[print individual's name and title]

for \_\_\_\_\_[print name of entity submitting sworn statement]

whose                                      business                                      address                                      is:  
\_\_\_\_\_

and Federal Employer Identification Number (FEIN) is \_\_\_\_\_, if the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement:  
\_\_\_\_\_

I understand that no person or entity shall be awarded or receive a City contract for public improvements, procurement of goods or services (including professional services) or a City lease, franchise, concession or management agreement, or shall receive a grant of City monies unless such person or entity has submitted a written certification to the City that it has not:

- (1)        been convicted of bribery or attempting to bribe a public officer or employee of the City, the State of Florida, or any other public entity, including, but not limited to the Government of the United States, any state, or any local government authority in the United States, in that officer's or employee's official capacity; or
  
- (2)        been convicted of an agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise; or
  
- (3)        been convicted of a violation of an environmental law that, in the sole opinion of the City's Project Manager, reflects negatively upon the ability of the person or entity to conduct business in a responsible manner; or
  
- (4)        made an admission of guilt of such conduct described in items (1), (2) or (3) above, which is a matter of record, but has not been prosecuted for such conduct, or has made an admission of guilt of such conduct, which is a matter of

record, pursuant to formal prosecution. An admission of guilt shall be construed to include a plea of *nolo contendere*; or

(5) where an officer, official, agent or employee of a business entity has been convicted of or has admitted guilt to any of the crimes set forth above on behalf of such and entity and pursuant to the direction or authorization of an official thereof (including the person committing the offense, if he is an official of the business entity), the business shall be chargeable with the conduct herein above set forth. A business entity shall be chargeable with the conduct of an affiliated entity, whether wholly owned, partially owned, or one which has common ownership or a common Board of Directors. For purposes of this Form, business entities are affiliated if, directly or indirectly, one business entity controls or has the power to control another business entity, or if an individual or group of individuals controls or has the power to control both entities. Indicia of control shall include, without limitation, interlocking management or ownership, identity of interests among family members, shared organization of a business entity following the ineligibility of a business entity under this Article, or using substantially the same management, ownership or principles as the ineligible entity.

Any person or entity who claims that this Article is inapplicable to him/her/it because a conviction or judgment has been reversed by a court of competent jurisdiction, shall prove the same with documentation satisfactory to the City Manager. Upon presentation of such satisfactory proof, the person or entity shall be allowed to contract with the City.

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CITY IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT ANY CONTRACT OR BUSINESS TRANSACTION SHALL PROVIDE FOR SUSPENSION OF PAYMENTS, OR TERMINATION, OR BOTH, IF THE CONTRACTING OFFICER OR THE CITY ADMINISTRATOR DETERMINES THAT **SUCH PERSON OR ENTITY HAS MADE FALSE CERTIFICATION.**

**Signatory Requirement.** In the case of a corporation, this affidavit shall be executed by the corporate president. In the case of a partnership, this affidavit shall be executed by the general partner(s). In the case of a business entity other than a partnership or a corporation, this affidavit shall be executed by an authorized agent of the entity or the individual.

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[Signature]

**NOTARY PUBLIC**

STATE OF FLORIDA

CITY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_.

Personally known \_\_\_\_\_ OR Produced identification \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ My commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
[Print, type or stamp Commissioned name of Notary Public]

**EXHIBIT B**

**DRUG FREE**  
**WORKPLACE**  
**CERTIFICATION.**

**SWORN STATEMENT ON DRUG FREE WORKPLACES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC  
OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to the City of Madeira Beach by

\_\_\_\_\_  
[print individual's name and title]

\_\_\_\_\_  
for

\_\_\_\_\_  
[print name of entity submitting sworn statement]

whose business address is:  
\_\_\_\_\_  
and (if  
applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_ (If  
the entity has no FEIN, include the Social Security Number of the individual signing this sworn  
statement:

I understand that no person or entity shall be awarded or receive a City contract for public  
improvements, procurement of goods or services (including professional services) or a City lease,  
franchise, concession, or management agreement, or shall receive a grant of City monies unless such  
person or entity has submitted a written certification to the City that it will provide a drug free  
workplace by:

- (1) Providing a written statement to each employee notifying such employee  
that the unlawful manufacture, distribution, dispensation, possession, or use of a

controlled substance as defined by §893.02(4), Florida Statutes, as the same may be amended from time to time, in the person's or entity's workplace is prohibited specifying the actions that will be taken against employees for violation of such prohibition. Such written statement shall inform employees about:

- (i) the dangers of drug abuse in the workplace.
  - (ii) the person's or entity's policy of maintaining a drug free environment at all its workplaces, including but not limited to all locations where employees perform any task relating to any portion of such contract, business transaction or grant.
  - (iii) any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) the penalties that may be imposed upon employees for drug abuse violations.
- (2) Requiring the employee to sign a copy of such written statement to acknowledge his or her receipt of same and advice as to the specifics of such policy. Such person or entity shall retain the statements signed by its employees. Such person or entity shall also post in a prominent place at all of its work places a written statement of its policy containing the foregoing elements (i) through (iv).
- (3) Notifying the employee in the statement required by subsection (1) that as a condition of employment the employee will:
- (i) abide by the terms of the statement; and
  - (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
- (4) Notifying the City within ten (10) days after receiving notice under subsection (3) from an employee or otherwise receiving actual notice of such conviction.
- (5) Imposing appropriate personnel action against such employee up to and including termination; or requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
- (6) Making a good faith effort to continue to maintain a drug free workplace through implementation of sections (1) through (5) stated above.

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CITY OF MADEIRA BEACH IS

VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT ANY CONTRACT OR BUSINESS TRANSACTION SHALL PROVIDE FOR SUSPENSION OF PAYMENTS, OR TERMINATION, OR BOTH, IF THE CITY DETERMINES THAT:

- (1) Such person or entity has made false certification.
- (2) Such person or entity violates such certification by failing to carry out the requirements of sections (1), (2), (3), (4), (5), or (6) or subsection 3-101(7)(B); or
- (3) Such a number of employees of such person or entity have been convicted of violations occurring in the workplace as to indicate that such person or

entity has failed to make a good faith effort to provide a drug free workplace  
as required by subsection 3-101(7)(B).

**Signatory Requirement.** In the case of a corporation, this affidavit shall be executed by the corporate president. In the case of a partnership, this affidavit shall be executed by the general partner(s). In the case of a business entity other than a partnership or a corporation, this affidavit shall be executed by an authorized agent of the entity or the individual.

Signature: \_\_\_\_\_

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

Company: \_\_\_\_\_

**NOTARY PUBLIC**

STATE OF FLORIDA

CITY OF \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 2023

by \_\_\_\_\_ who is

personally known to me OR Produced identification

\_\_\_\_\_ [type of identification]

My commission expires \_\_\_\_\_

\_\_\_\_\_  
Notary Public Signature

[Print, type or stamp Commissioned name of Notary Public]