

RESOLUTION NO. 2022-649

A RESOLUTION APPROVING FORM OF AGREEMENT BETWEEN THE CITY OF TAMPA AND VARIOUS CONSULTANTS IN CONNECTION WITH PROFESSIONAL SERVICES TO BE PROVIDED ON A WORK ORDER BASIS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS; DESIGNATING HOW PAYMENT FOR THE WORK IS AUTHORIZED; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City, after compliance with the Consultants' Competitive Negotiation Act of Florida (F.S., s.287.055), needs to enter into Agreements with various Consultants for professional services in connection with specifically funded projects to be performed on a Work Order basis.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:

Section 1. That the Form of Agreement entitled WORK ORDER AGREEMENT FOR PROFESSIONAL SERVICES AS NEEDED, or in substantially similar form, is hereby approved, being attached hereto and made a part hereof; and the City of Tampa is hereby authorized to enter into agreements utilizing said form, with those consultants listed on Exhibit A, attached hereto and by reference made a part hereof.

Section 2. That the Mayor of the City of Tampa is authorized to execute and the City Clerk to attest and to affix the official City seal to the Agreements for and on behalf of the City of Tampa.

Section 3. That work herein and hereby authorized shall be performed on a work order basis issued as needed to selected firms, for individual projects or services, available from various funds and shall be controlled by requisition and approval by the responsible Department Director.

Section 4. That the City Clerk shall file a fully executed copy of the Agreement in the official records of the City of Tampa as maintained by the Office of the City Clerk.

Section 5. That the proper officers of the City of Tampa are hereby authorized to do all things necessary in order to carry out the provisions of this Resolution, which shall take effect immediately upon its adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA,

ON AUG 04 2022

[Signature]
CHAIRMAN/CHAIRMAN PRO-TEM, CITY COUNCIL

Approved as to Legal Sufficiency:

e/s
Marcella T. Hamilton, Senior Assistant City Attorney

ATTEST:
[Signature]
CITY CLERK/DEPUTY CITY CLERK

2022-76144

Exhibit A

22-D-00400 C Recommended Firms

Alfred Benesch & Company

Arcadis U.S., Inc.

BCER Engineering, Inc.

Bowman Consulting Group, Ltd., Inc.

C&S Engineers, Inc

CALTRAN Engineering Group, Inc.

EnSafe Inc.

Four Waters Engineering, Inc.

H2M Architects & Engineers, Inc.

Kennedy-Jenks Consultants, Inc

OCI Associates, Inc.

Parsons Transportation Group Inc.

Protean Design Group, Inc

RGA-Design LLC

Setty & Associates International, PLLC

WORK ORDER AGREEMENT FOR PROFESSIONAL SERVICES AS NEEDED

THE CITY OF TAMPA, a municipal corporation of the State of Florida ("City"), whose notice address is 315 East Kennedy Boulevard, Tampa, Florida 33602, hereby contracts with **TYPE FIRM'S COMPLETE LEGAL NAME; CONFIRM @ SUNBIZ.ORG**, authorized and licensed as applicable to do business in the State of Florida, whose notice address is Type Firm's Notice Address - PO Box is NOT ACCEPTABLE ("Firm") to perform certain professional services as required and specified by the City from time to time subject to this agreement together with any incorporated attachments ("Agreement") via subsequently issued work orders ("Work Orders"):

Article 1 – GENERAL

1.1 **Background.** In response to *RFQ 22-D-00400 Work Order Agreements for Professional Services As Needed*, Firm submitted information regarding its qualifications ("Firm's Submittal") and was thereafter selected in accordance with § 287.055, Fla. Stat. (known as the "Consultants' Competitive Negotiation Act" or the "CCNA"), to provide on a work order basis certain of those professional services for which Firm asserts it is highly qualified as more particularly described in Firm's Submittal that is on file with the City, and hereby made a part of this Agreement. If and when the City notifies Firm that its services are desired, Firm shall submit a binding proposal ("Work Order Proposal" or "Proposal") in substantially the form attached hereto and incorporated herein as **Exhibit A**. To be enforceable against the City, a Work Order Proposal must be made part of an approved Work Order. An "approved Work Order" shall mean a Work Order that: (a) incorporates a Work Order Proposal; (b) is signed by the Director (defined as the top administrator of the Department of Contract Administration, or its successor department ("Department"), which Department has authority to solicit and administer certain contracts on behalf of other City entities ("User Department(s)"); (c) affixed with a valid City-issued purchase order number ("P.O. Number"); and (d) approved, as applicable, by resolution passed by City Council. The first page of an approved Work Order shall be in substantially the form attached hereto and incorporated herein as **Exhibit B**.

1.2 **Approval.** This Agreement is approved by Resolution _____, which was passed and adopted _____ ("Effective Date").

1.3 **Work; Order of Precedence.** Firm shall furnish all work, services, materials, and deliverables as set forth in or reasonably inferred from Work Order(s) issued hereunder and, as applicable, any task order(s) ("Task Order(s)" issued pursuant to a particular Work Order (hereinafter collectively "the Work"). Without limiting the foregoing, the Work shall consist of management, oversight, quality assurance, advice, and consultation (including without limitation, the preparation and provision of reports and other work product) together with, unless specifically excluded in a particular Work Order, the provision of all personnel, equipment, facilities, and supplies necessary to perform the Work. In the case of any conflict, the order of precedence from least to most controlling is: Firm's Submittal; a Work Order Proposal; a City purchase order; a Task Order, if any; a Work Order; this Agreement; Other Entity Requirements, if any (as defined and described in Section 8.10 below) with the interpretation most favorable to the City deemed to govern and control. Each approved Work Order, including without limitation any Task Order(s) issued thereunder, shall constitute a part of this Agreement.

1.4 **City Project Manager.** The City Project Manager shall mean the individual designated as such in an approved Work Order. From time to time, upon written notice, the City Project Manager or the Director may from time to time: (i) name a new City Project Manager; or (ii) delegate all or a portion of the City Project Manager's responsibilities. Firm shall regularly consult with and comply with any written instructions or written directives regarding the scope and results of Work Order Work given by the City Project Manager; provided, however, the City Project Manager shall have no authority to issue any instruction or directive that would increase Firm's total compensation under a Work Order, which shall only be increased by an amendment to said Work Order, signed by the Mayor and approved, as applicable, by City Council.

Article 2 – PERIOD OF SERVICE

2.1 **Term.** This Agreement shall be in effect from the Effective Date through to 11:59pm EST April 1, 2025, ("End Date") or until such time as all outstanding Work Orders issued prior to the End Date, are completed or earlier terminated. This Agreement may be renewed, and the End Date extended for an additional one-year period if agreed to in writing by both parties and approved, upon recommendation of the Mayor, by the City Council. No new Work Orders or Task Order(s), if any, shall be issued after the End Date, as may be extended.

2.2 **Notice to Proceed.** A "Notice to Proceed" or "NTP" means a written letter or directive issued by the Director or City Project Manager acknowledging that all conditions precedent have been met and/or directing that the Firm may commence performance of all or a portion of the Work to which the NTP is associated. Unless stated otherwise to the contrary in an approved Work Order (for example if said Work Order contemplates the issuance of Task Orders), an approved Work Order shall be deemed to be Firm's Notice to Proceed and Firm may commence performance of Work Order Work upon Firm's receipt of said approved Work Order.

2.3 **Time of Performance.** Firm shall complete all Work Order Work pursuant to the schedule submitted as part of Firm's Work Order Proposal. A reasonable extension of time for completion of various assignments, tasks, or phases may be granted by the City Project Manager should Firm be obstructed or delayed in the prosecution or completion of Work Order Work, as a result of unforeseeable causes beyond Firm's control, not reasonably anticipatable, and not due to Firm's fault or neglect. Written notice of such delay and the cause(s) thereof, shall be submitted to the City Project Manager within 48 hours after the commencement of such delay or Firm will be deemed to have waived any right to request a time extension. Such extension of time shall not be the cause for any claim for extra compensation. Time is of the essence in performance of services under this Agreement. By way of example, but not limitation, unforeseeable causes beyond Firm's control may include acts of the public enemy, fires, floods, epidemics, quarantine regulation, strikes, lockouts, unusually severe weather conditions by comparison with the ten-year average for Hillsborough County.

Article 3 – COMPENSATION

3.1 **Total Compensation.** Firm's total compensation for any single Work Order issued under this Agreement shall not exceed \$200,000, including without limitation reimbursable expenses. Amounts in excess of this limit shall be at Firm's sole cost and expense and the City shall have no liability or responsibility for paying any amount of such excess. Compensation shall be negotiated per Work Order on either a lump sum or a time and materials/cost plus fee basis, with a not-to-exceed cap or such other compensation methodology as the parties may mutually agree. The City may, at its sole discretion, use other compensation methodologies. **Firm shall not be owed any compensation or other amounts hereunder except to the extent authorized by the City in advance and in writing as evidenced by an approved Work Order and approved Task Order, as applicable.** Notwithstanding anything herein to the contrary, the City is not obligated (nor shall it be deemed required) to assign any minimum amount of work to Firm during the term of this Agreement.

3.2 **Allowance and Contingency.** The term "Allowance" shall mean a sum of money which may be included in Firm's total compensation amount for those required services the value of which cannot be reasonably quantified at the time. Firm shall not use any portion of an Allowance without prior written authorization from the City Project Manager. "Contingency" shall mean a sum of money which City may be included in Firm's total compensation amount for specific contingencies that are believed may be necessary to complete the Firm's required services and for which the Firm will be paid on the basis of stipulated unit prices and/or hourly rates, by a negotiated formula or as otherwise set forth in a particular Work Order; provided, however, Firm may only use Contingency amounts if specifically directed to do so by the City Project Manager in advance and in a writing.

Any services commenced by the Firm that Firm intends to charge against Contingency and/or Allowance amounts without first receiving the City Project Manager's prior written approval shall be at Firm's sole cost. Any unused Allowance and Contingency amounts shall remain with the City and be deducted from the Firm's total compensation.

3.3 **Expenses.** Unless specifically stated otherwise in a particular Work Order, the City shall only reimburse Firm for certain out-of-pocket expenses necessarily incurred by Firm in connection with this Agreement, without mark-up ("Reimbursable Expenses"), including document reproduction, materials for book preparation, permits, postage, courier and overnight delivery services, travel and car mileage, subject to the following:

- (i) mileage, airfare, lodging, and other travel expenses will be reimbursed only to the extent these would, if incurred, be reimbursed to City of Tampa personnel under its policies and procedures for business travel expense reimbursement, which policies and procedures are available for review; and
- (ii) Reimbursable Expenses are to be approved in advance and in writing by the City Project Manager; and
- (iii) the total of all Reimbursable Expenses paid to Firm in connection with any particular Work Order shall not exceed the amount identified therein as "Reimbursable Expenses Allowance".

3.4 **Invoices.** Unless specifically stated otherwise in a particular Work Order, payment shall be made in accordance with Part VII of Chapter 218, *Florida Statutes*, entitled *Local Government Prompt Payment Act*, after receipt of the Firm's invoice (application for payment), which shall be accompanied by sufficient supporting documentation and contain sufficient detail, to constitute a "proper invoice" as defined by Fla. Stat. §218.72, and to allow a proper pre- and post-audit of expenditures, should the City require one to be performed, in such form and containing such further detail, backup, and other information as the City may from time to time require. Invoices shall be about submitted no more than once a month, shall be itemized, detailed, and accompanied by valid receipts and sent to the City Project Manager care of the address noted on a particular approved Work Order or such other address as may from time to time be communicated to Firm in writing by the Director or City Project Manager. Invoices shall be signed by an authorized employee of Firm who has the best actual knowledge of information contained in such invoice. Firm shall submit proper invoices for approval to the City Project Manager (or as otherwise designated in the applicable Work Order or from time to time by the Director). Any dispute pertaining to pay requests must be presented to the City pursuant to Executive Order 2003-1, as amended, or its successor order. Subcontracted Work, if any, shall be invoiced at its actual cost without markup.

Where subcontracting exists with regard to a particular Work Order, Firm shall with each such Work Order invoice, submit a report on *Form MBD-30 DMI Sub-(Contractors/ Consultants/Suppliers) Payments* of all subcontracting entity contract amounts and payments together with completed reports or forms as the City may from time to time require pursuant to Chapter 26.5, *City of Tampa Code*.

3.5 **Budget Appropriations.** The City is subject to § 166.241, Fla. Stat., and is not authorized to contract for expenditures in any fiscal year except pursuant to its adopted budget. With respect to this Agreement, the City has budgeted and appropriated sufficient monies to fund the City's obligations under this Agreement; however, all funding under this Agreement for subsequent years is subject to the availability of funds. The City's obligations hereunder shall not constitute a general indebtedness of the City within the meaning of the Florida Constitution. Funding for this Agreement and any individual Work Order is contingent on the availability of funds and continued authorization for program activities and the Agreement is subject to amendment or termination due to lack of funds, reduction of funds and/or change in regulations, upon seven (7) days' notice.

Article 4 – FIRM RESPONSIBILITIES

4.1 **Independent Contractor.** The relationship of the Firm to the City shall be that of an independent contractor and nothing in this Agreement shall be construed to constitute Firm as an employee, agent, representative, or subagent of the City or any political subdivision of the State of Florida. Firm understands the City is not required to withhold any federal income tax, social security tax, state and local tax, to secure worker's compensation insurance or employer's liability insurance of any kind or to take any other action with respect to the insurance or taxes of Firm. In no event and under no circumstances shall any provision of this Agreement make the City or any political subdivision of the State of Florida liable to any person or entity that contracts with or that provides goods or services to Firm in connection with the Work or otherwise, or for any debts or claims of any nature accruing to any person or entity against Firm; and there is no contractual relationship, either express or implied, between City or any political subdivision of the State of Florida and any person or entity supplying any work, labor, services, goods, or materials to Firm.

4.2 **Subcontractors.** The Work shall be performed by Firm's own staff, unless otherwise provided in a subsequent Work Order. Firm shall assume full responsibility to the City for the improper acts and omissions of its consultants or others employed or retained by Firm in connection with this Agreement and all Work performed hereunder, including without limitation contractors/consultants/ suppliers of any tier, (hereinafter "Subcontractor" or "Subcontractors"). Each Subcontractor shall perform pursuant to an appropriate written agreement ("Subcontract") between Firm and such Subcontractor, which shall contain provisions that preserve and protect the rights of the City under this Agreement, including without limitation the requirement for Subcontractors to name the City an additional insured on certain of its insurance policies, language to allow the Subcontract to be assigned to the City as described in Section 8.1 below, entitled *Assignment*, the City's rights regarding the Materials as defined and described in Section 4.06 below, entitled *Works for Hire*, employment practices per Section 7.1 below, entitled *Assurance of Nondiscrimination in Contracting and Employment*, etc. Subcontracted Work, if any, shall be invoiced at its actual cost without markup.

Firm shall not add or change a Subcontractor named in an approved Work Order without the City's prior written approval made in response to a written request from Firm stating the reasons for any proposed substitution or addition together with such information as the City may require to determine the suitability of the individual or entity being proposed. The City will act reasonably in evaluating same; provided, however the City's acceptance shall not constitute any responsibility or liability for such individual or entity's ability to perform. Further, nothing contained in this Agreement, including without limitation any City consent to a Subcontractor or particular Subcontract, shall create (or be construed to create) any contractual or business relationship between the City and a Subcontractor.

4.3 **Qualifications.** Firm holds (and shall maintain during the term of this Agreement) all necessary licenses, permits, or other authorizations necessary to perform those services identified in Firm's Submittal and all those engaged to perform the Work shall be fully qualified and authorized or permitted under Florida and local law to perform the Work. Firm shall ensure that all individuals assigned to serve the City have such knowledge and experience as required to perform the duties assigned to them. Firm shall assign only qualified personnel to perform any service. No person who is serving sentence in a penal or correctional institution shall be employed for work under this Agreement. Prior to submitting a Work Order Proposal, Firm shall, as applicable, become familiar with the laws, ordinances, codes, criteria, authority, rules, and regulations involved, site, and local conditions under which the project is to be designed, constructed, and operated.

4.4 **Compliance.** Firm shall cause the Work to be performed in compliance with any and all applicable requirements of federal, state and local laws, ordinances, codes, criteria, authority, rules, and regulations as may be amended from time to time, including without limitation the Codes and Ordinances of the City of Tampa, Florida, which include among others The City of Tampa Ethics Code, ("Applicable Law"). Where documents are required to be filed with governmental agencies, Firm will furnish copies to the City upon request.

4.5 **Standards.** Firm shall furnish the Work by experienced personnel under the supervision of proficient and experienced personnel, all said personnel to be licensed as applicable under Florida law, exercising a degree of care

and diligence in performing the Work in compliance with Applicable Law and in accordance with the standards of care, skill, and diligence as would be provided by a professional in a similar field with extensive and special expertise in the type of services required and geographic area within which they are to be performed. Firm is solely responsible for the professional quality, accuracy, efficacy, and coordination of all Work.

4.6 **Works for Hire.** All sketches, tracings, drawings, specifications, photographs, architectural or other works, surveys, maps, computations, details, design calculations, computer files, and/or reports developed, prepared, authored, provided, or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, including without limitation all electronic digital copies that arise out of or result from this Agreement ("Materials") will be considered works made for hire and shall be, become, and remain the property of the City without restriction or limitation on their use and regardless of project execution, and will be made available upon request, to the City at any time during the performance of such services and/or upon completion or termination of this Agreement. Firm shall not copyright any Materials and products or patent any invention developed under this Agreement. All Materials are subject to reuse by the City as provided in § 287.055 (10), Fla. Stat. City shall have the right to inspect the work and the products of Firm at any time. Firm shall have a license in the Materials to the extent necessary to perform the applicable Work and shall be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the City's use and/or occupancy of a particular Work Order project. Failure of Firm to promptly deliver all or a portion of the Materials or documents/deliverables as may otherwise be required hereunder, both hard copy and digital, to the City Project Manager (or designee) shall be just cause for the City to withhold payment of any amounts due hereunder (or under any other agreement between Firm and the City) until Firm delivers all such documents. Firm shall have no recourse from these requirements. If for any reason all or a portion of the Materials should not be considered a "Work for Hire" under applicable law, then the Firm shall be deemed to have transferred to the City, its successors and assigns, the Firm's entire right, title, and interest in and to said Materials and the legal rights therein, including but not limited to, copyright, included therein.

Article 5 – INSURANCE AND INDEMNITY

5.1 **Insurance.** Firm shall comply as required by the attached and incorporated **Exhibit C**; provided, however, notwithstanding anything to the contrary herein or therein:

(a) **Professional Liability Insurance.** Paragraph G of said **Exhibit C**, entitled *Architects & Engineers Liability/Professional Liability (E&O)/Contractors Professional Liability (CPrL)*, shall be modified to the extent necessary to be deemed "ALWAYS APPLICABLE" and to require such insurance to be maintained for at least four (4) years after completion of work/services and the City's acceptance of same.

(b) **Deductibles/Self-Insured Retentions (SIR).** Given the nature of this Agreement, the City's Risk Manager has specifically determined that Self-Insured Retentions (SIR) are **not allowed** and deductibles for coverages associated with Paragraph G of said **Exhibit C**, entitled *Architects & Engineers Liability/Professional Liability (E&O)/Contractors Professional Liability (CPrL)* **shall not** exceed \$20,000.

(c) An express condition precedent to Firm commencing performance under any approved Work Order, shall be the City's receipt of: (i) certificate(s) of insurance provided by Firm's agent or broker on the most recent ISO form, (ii) cop(ies) of the signed declarations page(s); and (iii) a copy of all required endorsements.

Indemnity. To the greatest extent permitted by law, including §725.08, Fla. Stat., the Firm shall indemnify and hold harmless the City, its officers and employees (collectively the "City Indemnified Parties") from all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligent acts, recklessness, or intentional wrongful conduct of the Firm and other persons employed or utilized by the Firm in the performance of this Agreement and any subsequently issued Work Order. The Firm's obligation under this Section shall not be limited in any way by the agreed upon compensation, or the Firm's limit of, or lack of, sufficient insurance protection and shall apply to the full extent that it is caused by the negligence, acts, recklessness, or intentional wrongful conduct of the Firm and other persons employed or utilized by the Firm in its performance of this Agreement and any subsequently issued Work Order. This Section 5.2 shall survive the expiration or earlier termination of this Agreement. In the event the law is construed to require a specific consideration for such indemnification, the parties agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnification and the providing of such indemnification is deemed to be part of the specifications with respect to the services provided by Firm.

Article 6– TERMINATION OR SUSPENSION OF AGREEMENT

6.1 **City's Right to Terminate.** Except as otherwise stated herein, the City shall have the right by and through the Director, with or without cause, for any reason or no reason, to terminate Firm's right to proceed under this Agreement, in whole or in part (including without limitation directing the Firm to reduce or terminate any or all of the Firm's Work Order(s), Task Order(s), or Subcontracts), upon no less than seven (7) calendar days written notice

setting forth the date of such reduction or termination ("Termination Date"). Such reduction or termination shall be without waiver or release of the City's rights and remedies against Firm's sureties and without prejudice to any other right or remedy the City may be entitled to hereunder or by law. As part of such reduction or termination, the City shall have the right but not the obligation to take assignments of any of Firm's Subcontracts or purchase orders that City may designate, and complete all or any portion of the Work by whatever means, method or agency which City, in its sole discretion, may choose. Firm shall have no recourse or remedy from any termination made by the City except to retain allowable costs or reimbursable expenses, earned compensation for duly authorized Work that was performed in complete compliance with the Agreement through to the Termination Date, as full and final settlement of any claim, action, demand, cost, charge or entitlement it may have, or will, have against the City Indemnified Parties.

6.2 City's Right to Suspend. If the City suspends all or any portion of the Work (including without limitation directing the Firm to reduce or terminate any or all of the Firm's individual Work Orders, Task Orders, or Subcontracts) for the convenience of the City for more than three (3) consecutive months, Firm shall be paid for services duly authorized, performed prior to such suspension, together with the cost of authorized reimbursable services and expenses then due, and all appropriate, applicable, and documented expenses resulting from such suspension. If same is resumed after having been suspended for more than three (3) consecutive months, Firm's further compensation shall be subject to renegotiations.

Article 7– EQUAL OPPORTUNITY

7.1 Assurance of Nondiscrimination in Contracting and Employment. This Agreement expressly obligates Firm, and any party it subcontracts with, not to discriminate in employment practices. Firm shall comply with the following Statement of Assurance: Firm assures the City that Firm is in compliance with Title VII of the 1964 Civil Rights Act, as amended; the Florida Civil Rights Act of 1992, as amended; and the City of Tampa Human Rights Ordinance (Chapter 12, *City of Tampa Code*) in that the Firm does not on the grounds of race, color, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, familial status, or marital status, discriminate in any form or manner against said Firm's employees or applicants for employment. If any federal monies are involved or implicated in this Agreement (e.g. federal assistance, grant monies, FDOT-LAP, etc.), then Firm agrees it shall comply with Title VI of the Civil Rights Act of 1964, as amended, together with, as applicable, complying with the Title VI Nondiscrimination Contract Provisions, Appendices A and E, available at <http://www.dot.state.fl.us/procurement/index.shtm>, which shall as appropriate be deemed incorporated by reference and made a part of this Agreement. This Statement of Assurance shall be interpreted to include Vietnam-Era Veterans and Disabled Veterans within its protective range of applicability.

Firm understands and agrees that this Agreement is conditioned upon the veracity of this Statement of Assurance, and that violation of this condition shall be considered a material breach of this Agreement.

7.2 Equal Business Opportunity Program. To the maximum extent allowed by law, Firm shall endeavor to utilize City of Tampa certified Women and Minority Business Enterprises (WMBEs) and Small Local Businesses Enterprises (SLBEs). In addition to any list of City-certified WMBEs and/or SLBEs the City may make available in connection with a particular Proposal request, Firm may explore other potential opportunities for subcontracting by consulting the current directory of all City-certified firms posted by the City at <https://tampa.diversitysoftware.com> and on the City's website under Minority & Small Business Development. At the time of the submission of its Proposal, Firm shall submit to the City signed and completed Form MBD-10 *'Schedule of All Solicited Sub-(Contractors/Consultants/Suppliers) (Form MBD-10)'* and Form MBD-20 *'Schedule of All -To Be Utilized Sub-(Contractors/Consultants/Suppliers) (Form MBD-20)'* reporting all subcontractors (including non-certified) solicited and utilized together with such other forms as the City may from time to time require pursuant to Chapter 26.5, *City of Tampa Code*. With regard to a particular Work Order where subcontracting exists, Firm shall submit to the City with its invoices for each such Work Order a signed and completed *Form MBD-30 DMI Sub-(Contractors/ Consultants/Suppliers) Payments* together with such other forms as the City may from time to time require pursuant to Chapter 26.5, *City of Tampa Code*.

Article 8– MISCELLANEOUS

8.1 Assignment. Firm shall not directly or indirectly, in whole or in part, assign or otherwise transfer any interest in this Agreement, including without limitation by subcontract, acquisition of assets, merger, consolidation, dissolution, or operation of law, ("Assignment") without City's prior written consent which may be withheld or conditioned in the City's sole discretion. Any written consent given by City shall not relieve Firm, or any, successor, assignee, or transferee, from the obligation to obtain Firm's consent prior to any future Assignment. Any individual or entity taking an Assignment with the City's consent shall expressly assume this Agreement in writing on the City's form, an executed original counterpart of which shall be delivered to the City prior to any Assignment. Any Assignment in violation of the foregoing shall be voidable at the City's option, and the City may elect to terminate this Agreement by providing written

notice of its election to terminate pursuant to this provision effective as of the date stated therein. Where an approved Work Order indicates subcontracting is being rendered such approval shall constitute the City's written consent to such Assignment (by subcontract) with regard to said particular Work Order. Without limiting any of the foregoing, if, pursuant to the U.S. Bankruptcy Code, Firm is permitted to assign or otherwise transfer its rights and obligations under this Agreement in disregard of the foregoing restrictions, the transferee agrees to provide adequate assurance to the City of the continuous performance of this Agreement and of such other matters as the City may reasonably require at the time of such assignment pursuant to the U.S. Bankruptcy Code. Such transferee shall expressly assume this Agreement in writing, an executed original counterpart of which shall be delivered to the City prior to any such assignment pursuant to the U.S. Bankruptcy Code.

8.2 **Audit and Records.** All records and supporting documentation kept by or through Firm with respect to this Agreement (including without limitation all agreements, contracts, subcontracts, invoices, materials, records of personnel, records of employment, etc.) shall be kept according to generally recognized account principles for a period of five (5) years from the expiration or earlier termination of this Agreement (or such longer period as may be required by applicable law, rule, code, or ordinance, including without limitation Chapter 119, *Florida Statutes*) made available for examination, audit, inspection, transcript, or copying purposes at any time during normal City business hours at a mutually acceptable location within Hillsborough County, Florida as often as the City (together with any federal, state, or local entity or agency associated with or otherwise implicated by this Agreement) may require. Firm will submit or assist with submission of any annual or other reports that may be required by any applicable law, rule, regulation, code, or ordinance of the City and any other county, state, or federal agency or entity associated with or otherwise implicated by this Agreement. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the foregoing required record retention period, Firm shall retain the records required hereunder until completion of the action and resolution of all issues which arise from it, or the end of the required period, whichever is later.

8.3 **Authorization.** Firm represents to the City that it has authority under all applicable laws to enter into this Agreement, that all of the procedural requirements imposed by law for the approval and authorization of this Agreement have been properly completed, and that the persons who have executed this Agreement on behalf of Firm are authorized and empowered to execute this Agreement.

8.4 **Certificates, Certifications, and Other Provisions.** The certificates, certifications, and other provisions, if any, are contained in the attached **Exhibit D**, if applicable, and are, by this reference, fully incorporated into this Agreement.

8.5 **City of Tampa Ethics Code Business Ethics Commitment.** Firm understands that the City of Tampa Charter and City of Tampa Ethics Code prohibit any City official or employee from receiving any substantial benefit or profit out of any contract or obligation entered into with the City, or from having any direct or indirect financial interest in effecting any such contract or obligation. Firm shall ensure that no City employee receives any such benefit or interest as a result of this Agreement. Per the business ethics commitment required per Section 2-522, *City of Tampa Code*, to be in all City contracts, Firm acknowledges, agrees, and commits among to comply with the City of Tampa Code of Ethics. If Firm fails to comply with the business ethics commitment, then such failure shall render this Agreement voidable by the City and subject Firm to debarment from future City contracts. The City of Tampa Ethics Code may be accessed at www.tampagov.net/human-resources/info/lobbyist-information or published online by the Municipal Code Corporation at www.municode.com/library/fl/tampa/codes/code_of_ordinances; also printed copies may be obtained from the City Clerk's Office for a fee of \$0.15 cents a page.

8.6 **Choice of Law; Venue.** The laws of the State of Florida (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including without limitation, its interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the United States District Court for the Middle District of Florida, Tampa Division or in any court of the State of Florida sitting in Tampa.

8.7 **Entire Agreement; Estoppel and Waiver.** This Agreement sets forth the entire agreement between the parties and there are no promises or understandings other than those stated in this Agreement. Exhibits to this Agreement shall be deemed to be incorporated by reference as though set forth in full herein. No waiver of any provisions of this Agreement shall be effective against the City unless it is in writing and signed by the Mayor or the Director on behalf of the City and such waiver shall only be applicable to the specific instance in which it relates and shall not be deemed to be a continuing waiver. The failure of the City to enforce any term or condition of this Agreement shall not constitute a waiver or estoppel of any subsequent violation of this Agreement.

8.9 **Interests of Members of the City; Interests of Firm.** No member of the governing body of the City and no other officer, employee, or agent of the City who exercise any functions or responsibilities in connection with the carrying out of the project(s) to which this Agreement or a Work Order pertains shall have any personal interest, direct or indirect, in this Agreement. Firm covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any project to which this Agreement or any related Work Order pertains or any

other interest which would conflict in any manner or degree with its performance of any contracted service hereunder. Firm further covenants that in the performance of this Agreement no person having such interest shall be employed.

8.10 Waiver of Jury Trial; Claw-back Agreement. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT TO ENFORCE THE TERMS OF THIS AGREEMENT. Firm agrees that if the City inadvertently includes any privileged material in documents of any kind transmitted to Firm for any reason, including without limitation in response to discovery, said inadvertent inclusion shall not result in the waiver of any associated privilege nor result in a subject matter waiver of any kind. The parties agree the disclosure of any particular material shall cease to be "inadvertent" if thirty (30) days after Firm receives said material it informs the City that it has received the material and the City does not request the return of same; to be returned thereon by Firm immediately. Firm shall make no copies and take no action, including without limitation asserting claims against the City, based on all or a portion of said inadvertently disclosed material.

8.11 Other Entity Requirements. If the City intends to request Work from Firm that involves the use of any federal or state monies, other non-City funding sources and/or the involvement of federal or state grantors or approving agencies, then the City shall so inform Firm as part of the City's request for a Work Order Proposal and Firm shall attach and incorporate any special or supplemental conditions required ("Other Entity Requirements") as part of its Work Order Proposal. Notwithstanding anything herein to the contrary, any Other Entity Requirements incorporated into an approved Work Order shall with regard to said Work Order take precedence and control over the terms and conditions of this Agreement.

8.12 Private Property; Publicity. Firm shall conduct the Work so that no persons, equipment, or materials will be placed or allowed upon private property unless Firm shall have first obtained and filed with the City Project Manager the private property owner's prior written consent on the City's standard Right of Entry form. Firm shall not disseminate publicity or news releases regarding or related to the Project, the Agreement, Work Order, or any combination thereof that might be seen or interpreted as placing the City in an unfavorable light, including without limitation posts, tweets or otherwise using social media. Firm, at no cost to the City, will make itself reasonably available for any opening ceremonies and/or similar official media events associated with an approved Work Order. Per City Code, the City seal may not be used without written permission from the Mayor and City Council.

8.13 Sovereign Immunity. Nothing in this Agreement, including without limitation any Work Order(s) or Task Order(s) issued hereunder, shall be deemed or construed as a waiver of any privilege, immunity or other protection which may be available to the City under the doctrine of sovereign immunity or the limitations of liability contained in § 768.28, Fla. Stat. Likewise, to the extent applicable, any claim for indemnity brought under this Agreement against the City will comply with the procedural requirements and pre-suit conditions contained in § 768.28, Fla. Stat.

8.14 Notice. Whenever either party desires to give notice unto the other, such notice must be in writing, sent by registered United States mail, 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 paragraph. For the present, the parties designate the following as the respective places for giving of notice:

For City of Tampa:

Director of Contract Administration
306 E. Jackson Street
Tampa, Florida 3602

With a copy to:

City Attorney
Old City Hall
315 E. Kennedy Boulevard
Tampa, Florida 33602

For Firm:

At the address first stated above.

8.15 Severability. If any provision of this Agreement is determined to be invalid, unequal or unenforceable, the remaining provision of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable to the extent permitted by law.

8.16 Truth-In-Negotiation Certificate. In accordance with FLA. STAT. § 287.055(5), as applicable, Firm by signing the Agreement shall be deemed to have signed the certificate contained in this section certifying and confirming as required that the wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Firm agrees that the original price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement (for purposes of this certificate the end of this Agreement shall be deemed to be the later of the End Date, or the date of final billing, or the date of acceptance of the Work by the City).

Prohibition Against Contingent Fees. In accordance with FLA. STAT. § 287.055(6): Firm warrants Firm has not employed or retained any company or person, other than a bona fide employee working solely for Firm to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Firm any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

8.17 Public Entity Crime. Per FLA. STAT. § 287.133: a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in FLA. STAT. § 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

8.18 Scrutinized Companies Certification. Firm certifies in accordance with FLA. STAT. § 287.135, which prohibits local government agencies from entering into or renewing a contract for goods or services (i) of any amount with companies that are on the Boycott Israel List or engaged in a boycott of Israel and (ii) of \$1 million or more, with companies that are on either the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria, that Firm is not in violation of FLA. STAT. § 287.135 on such lists, engaged in such a boycott, or engaged in such business operations. Firm acknowledges and agrees the Agreement may be terminated at the City's option if it is found (m) Firm's foregoing certification is false or (mi) Firm has been placed on such lists, been engaged in a boycott of Israel, or been engaged in business operations in Cuba or Syria.

8.19 Firm Employees. PURSUANT TO §558.0035, FLORIDA STATUTES, CONSULTANT'S INDIVIDUAL EMPLOYEES AND/OR AGENTS MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THEIR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT.

8.20 Exempt Plans. During the solicitation and/or its performance of the Agreement, Firm may hold, come into possession of, and/or generate certain building plans, blueprints, schematic drawings, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, facility, or other structure owned or operated by the City or an agency that per FLA. STAT. § 119.071(3) are exempt from FLA. STAT. § 119.07(1) and Section 24(a), Art. I of the Florida State Constitution ("Exempt Plans"). Firm certifies it: (i) has read and is familiar the exemptions and obligations of FLA. STAT. § 119.071(3) and (ii) is and shall remain in compliance with FLA. STAT. § 119.071(3), including without limitation maintaining the exempt status of Exempt Plans for so long as they are held by or otherwise

in Firm's possession.

8.21 Public Records Access. Firm has been advised and is aware that this Agreement and all reports, documents, information and data, including but not limited to electronic or digital files, furnished or prepared by or through Firm pursuant to this Agreement and provided to City are public records and City may authorize third parties to review and reproduce such documents pursuant to public records laws, including the provisions of Chapter 119, Florida Statutes, and other applicable federal laws. To the extent applicable, Firm agrees it together with those engaged by or through Firm in performance of the Services are required to comply with the provisions said Chapter 119, Florida Statutes, commonly known as Florida's "Public Records Law" (hereinafter "Chapter 119"), including without limitation compliance with FLA. STAT. 119.0701, and specifically to: (i) Keep and maintain public records required by the City to perform the Services; (ii) Upon request from the City, provide the City with a copy of the requested records, having redacted records in total or in part that are exempt from disclosure by law, or allow the records to be inspected or copied within a reasonable time (with provision of a copy of such records to the City) on the same terms or conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law; (iii) Ensure that records, in part or in total, that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if Firm does not transfer the records to the City; (iv) Upon completion (or earlier termination) of this Agreement, transfer, at no cost, to the City all public records in possession of Firm or keep and maintain the public records in compliance with Chapter 119. If Firm transfers all public records to the City upon completion (or earlier termination) of this Agreement, Firm shall destroy any duplicate records that are exempt or confidential and exempt from public records disclosure requirements. If Firm keeps and maintains public records upon completion (or earlier termination) of this Agreement, Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon the City's request in a format that is compatible with the information technology systems of the City.

With regard to such public record requirements and/or this paragraph, this Agreement shall be deemed to allow for unilateral termination by the City for any refusal by Firm (or those engaged in performance of the Work) to allow public access to all documents, papers, letters, or other material made or received by Firm (or those engaged in performance of the Work) in conjunction with this Agreement, unless the records are exempt from public record requirements. Firm shall ensure a similar provision is incorporated as necessary into the applicable agreements of those engaged in performance of the Work.

IF FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 813-274-8598, JIM.GREINER@TAMPAGOV.NET, AND CONTRACT ADMINISTRATION DEPARTMENT, TAMPA MUNICIPAL OFFICE BUILDING, 4TH FLOOR, 306 E JACKSON ST TAMPA, FL 33602

Data Collection. Pursuant to § 119.071(5)(a)2.a., Fla. Stat., social security numbers shall only be collected from Firm by the City should such number be needed for identification, verification, and/or tax reporting purposes. To the extent Firm collects social security number(s) in the course of acting on the City's behalf pursuant to the Agreement, Firm shall follow the requirements of Florida's Public Records Law.

8.22 E-Verify. Firm (and its subcontractors) have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees. By executing this Agreement, Firm certifies that it is registered with, and uses, the E-Verify system for all newly hired employees. Firm shall provide sufficient evidence to the City that Firm is registered with the E-Verify system before commencement of performance under this Agreement upon request of the City. Firm must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of section 448.095, Fla. Stat., and maintain a copy of such affidavit for the duration of the Agreement. This section serves as notice to Firm regarding the requirements of section 448.095, Fla. Stat., specifically sub-paragraph (2)(c)1, and the City's obligation to terminate the Agreement if it has a good faith belief that Firm has knowingly violated section 448.09(1), Fla. Stat. If terminated for such reason, Firm will not be eligible for award of a public contract for at least one year after the date of such termination. The City reserves the right to order the immediate termination of any contract between Firm and a subcontractor performing work on its behalf should the City develop a good faith belief that the subcontractor has knowingly violated section 448.09(1), Fla. Stat. Firm certifies that Firms in compliance with section 448.095(2)(a), and that within the last year (i.e., within the last 365 days), it has not had a contract terminated under section 448.095(2)(c),

Fla. Stat., by a public employer, as defined by section 448.095(1)(i).

CITY AND FIRM are executing this Agreement as of the Effective Date.

FIRM:

TYPE FIRM'S COMPLETE LEGAL NAME; CONFIRM @ SUNBIZ.ORG

[CORPORATE SEAL]

By: _____
Must be hand signed & the original hand signed document received prior to City execution.

Print Name: _____

Title: *Signor's title must match one of the following options, check only the one that applies*

- Individual/Sole Proprietor
- Pres Exec/Sr VP CEO Authzd General Partner
- Mgr of Mgr-Mgd PLLC/LLC Authzd Mbr of Mbr-Mgd PLLC/LLC

Firm's Fla DBPR/DACS License No.: _____
Entity COA/license #: individual's only if applicable.

ATTEST:

**CITY:
CITY OF TAMPA, FLORIDA**

By: _____
City Clerk/Deputy City Clerk
[SEAL]

By: _____
Jane Castor, Mayor

APPROVED AS TO FORM

Marcella T. Hamilton, Assistant City Attorney

**EXHIBIT A TO
WORK ORDER AGREEMENT FOR PROFESSIONAL SERVICES AS NEEDED**

FORM OF WORK ORDER PROPOSAL

[See the attached 7 Pages]

Exhibits Are For Future Use.

DO NOT COMPLETE WHILE SIGNING BASE CONTRACT.

WORK ORDER PROPOSAL

Work Order Proposal Date:

RE:

Dear City Project Manager:

Pursuant to that certain Work Order Agreement for Professional Services as Needed ("Agreement") with City of Tampa ("City") that was authorized by Resolution No. _____, Firm Legal Name ("Firm") provides this letter (hereinafter "Work Order Proposal" or "Proposal") as our binding offer to provide to the City all work, services, materials, and deliverables identified below pursuant to the terms and conditions of the Agreement subject only to the City, at the City's option, attaching this Proposal to an approved Work Order. Capitalized terms not defined herein shall be as defined in the Agreement.

As advised by the City, the work or project with which this Proposal is associated WILL | WILL NOT require the incorporation of other entity requirements as more particularly described in Section 8.10 of the Agreement, entitled *Other Entity Requirements*. If so required, then certain special or supplemental conditions shall be attached and incorporated into this Proposal as the Other Entity Rider, which shall take precedence as set forth in said Section 8.10.

Such work or project WILL | WILL NOT be managed through a series of subsequently issued task orders ("Task Orders"). If Task Orders are to be used, then Firm agrees: (i) Firm's commencement of any work or services under any approved Work Order that incorporates this Proposal shall first require the City issue an "approved Task Order", which is defined as a written Task Order signed by the Director, affixed with a valid purchase order number ("P.O. Number") and, if applicable, approved by City Council; (ii) each Task Order shall include, as mutually agreed by Firm and the City Project Manager: a specific scope of work (from that more generally described in this Work Order), schedule, and a not-to-exceed or lump sum compensation amount estimated using the Rates Rider (defined below); (iii) amounts to be charged against Task Order(s) issued hereunder shall not in the aggregate exceed the total compensation amount shown in Paragraphs V and VI below and shall notify the City Project Manager in writing when aggregate Task Order amounts equal 80% of said total compensation amount; and (iv) Firm is not authorized to proceed with, and will not be compensated for, any work, fee, or expense that is not properly authorized by an approved Task Order or that in the aggregate exceeds said total compensation amount.

I. GENERAL

II. SCOPE OF WORK

III. FIRM PROJECT MANAGER/KEY PERSONNEL

Firm Project Manager for this Work Order assignment will be: _____.

Firm Key Personnel for this Work Order assignment will be: _____.

The individual named as Firm Project Manager, has been granted full authority to bind and obligate Firm on all matters arising out of or relating to the Work or the approved Work Order to which this Proposal is attached. Firm agrees that the Firm Project Manager shall devote whatever time is required to satisfactorily manage the Work described herein. Firm further agrees the work described herein shall be performed and directed, as applicable, by the individual(s) named above as Firm Project Manager and Firm Key Personnel (together the "Key Staff"). Firm shall ensure that the Key Staff are available for as long as such individual(s) is/are in Firm's employ. Firm shall not add, change, or remove Key Staff without first obtaining the City Project Manager's prior written consent (not to be unreasonably withheld) in response to a written request from Firm stating the reasons for any proposed modification to Key Staff and providing such information as the City may require to evaluate the suitability of said modification. The City will act reasonably in its evaluation; provided, however, its acceptance shall not constitute any responsibility or liability for any such individual's ability to perform the work.

VII. ADDITIONAL SERVICES

The above breakdown of Firm's total compensation may include an allowance amount for additional services as requested by the City and/or for unforeseen circumstances, which shall be utilized at the City's sole discretion and may be more particularly described in an Additional Services Rider. Firm shall not commence any additional service to be charged against said available allowance amount unless such additional service is first approved in advance and in writing by the City Project Manager, which writing shall be as more particularly described and set forth in an independent and detailed Notice to Proceed for such additional service. If the City should later desire to establish (or increase) an allowance for additional services, the City shall do so by written amendment subject to City Council action.

VIII. EQUAL BUSINESS OPPORTUNITY PROGRAM REPORTING

Firm submits the attached and incorporated Form MBD-10 *'Schedule of All Solicited Sub-(Contractors/Consultants/Suppliers) (Form MBD-10)'* and Form MBD-20 *'Schedule of All -To Be Utilized Sub-(Contractors/Consultants/Suppliers) (Form MBD-20)'* reporting all subcontractors (including non-certified) solicited and to be utilized; and shall submit same with Task Order(s), if applicable.

IX. TO BE PROVIDED BY CITY

The following shall be provided by the City:

If available, Firm will receive:

X. FIRM SUBMITTALS

Unless otherwise expressly stated herein: (i) drawings, sketches, plans, surveys, etc. submitted to the City shall either be produced in a computer generated format using AutoCAD or compatible software that can be saved as a (.DWG) file together with a hard copy and a (.PDF) copy and (ii) narrative materials whether in draft, interim, final, or other form (e.g. memorandums, minutes, agendas, etc.) submitted to the City shall be produced in a computer generated format using Word or compatible software that can be saved as a (.DOC/.DOCX) file together with a (.PDF) copy.

Notwithstanding anything stated herein to the contrary, all submittals to the City regardless of type or format (e.g. .DWG, .PDF, .DOC, etc.) shall: (a) be compatible with City systems without loss of data, quality of appearance, or accuracy; (b) be enabled to ensure the City has the ability to easily retrieve, use, and modify them; and (c) meet the minimum criteria or requirements stated herein together with all other applicable City standards from time to time provided to Firm. Submittals not in compliance with the foregoing shall be resubmitted at no additional cost to the City until compliant. Electronic files submitted to the City shall be error free, not corrupted, and without viruses, malware, or other code that may cause harm to City systems.

XI. INTENTIONALLY LEFT BLANK

NOT APPLICABLE

XII. INCORPORATION

The following attached Riders are deemed to be incorporated by this reference as though fully set forth herein.

- Certifications Rider Additional Services Rider Rates Rider Other Entity Requirements Rider
- OTHER: _____ OTHER: _____

XIII. INTENT; CONDITION PRECEDENT

This Proposal is a binding offer, which shall be accepted by the City only upon this Proposal being incorporated by the City (in its sole discretion) into an approved Work Order, as defined in the Agreement. Firm acknowledges an express condition precedent to Firm commencing performance under any approved Work Order, shall be the City's receipt of (i) certificate(s) of insurance provided by Firm's agent or broker on the most recent ISO form, (ii) cop(ies) of the signed declarations page(s); and (iii) a copy of all required endorsements.

Submitted by: Firm Legal Name

Print Name: _____

Title: Individual/Sole Proprietor

Pres Exec/Sr VP CEO Auth Gen Partner

Mgr (Mgr-Mgd PLLC/LLC) Auth Mber (Mber-Mgd PLLC/LLC)

Other: _____

(If "Other" is checked, then proof of authority must be attached.)

[CORPORATE SEAL]

Firm's Fla DBPR/DACS License No.: _____

RATES RIDER

Attached and Incorporated into the Work Order Proposal of Firm Legal Name Dated
Regarding

[UNLESS STATED OTHERWISE, ALL RATES ARE HOURLY]

(End of Rates Rider)

ADDITIONAL SERVICES RIDER

Attached and Incorporated into the Work Order Proposal of Firm Legal Name Dated
Regarding

(End of Additional Services Rider)

OTHER ENTITY RIDER

Attached and Incorporated into the Work Order Proposal of Firm Legal Name Dated
Regarding

(End of Other Entity Rider)

EXHIBIT B TO
WORK ORDER AGREEMENT FOR PROFESSIONAL SERVICES AS NEEDED
FORM OF WORK ORDER FIRST PAGE



CITY OF TAMPA

Jane Castor, Mayor

CONTRACT ADMINISTRATION DEPARTMENT

Work Order No.:

Contract No.:

Under Agreement: That certain Work Order Agreement for Professional Services as Needed (the "Agreement") between the City of Tampa Florida and the below named Firm as authorized by Resolution No. _____

Firm Name: _____

User Department: _____

City Project Manager: _____

POETA: _____

Account String: _____

Work Order Title: _____

NIGP Code: _____

Total Compensation: _____

Attachments: _____

Pre-Auth. Approvals: _____

Required Authorization: _____

Director Contract Administration Dept.

Date

P.O. Number

(Valid only if above signature is present)

(Valid only if P.O. Number is present)

Resolution Needed for Work Order: Yes No

City is only be bound by an "approved Work Order", defined in the Agreement as a Work Order that incorporates a Work Order Proposal, is signed by the Director of the Contract Administration Department ("Director"), affixed with a valid P.O. Number and, if applicable, approved by City Council (see above "Resolution Needed for Work Order" check box). Before initiating performance under an approved Work Order, Firm must first receive a written Notice to Proceed issued by the City through the City Project Manager or Director; provided, however unless stated otherwise in a particular Work Order Proposal (for example if Task Order(s) are contemplated), an approved Work Order shall be deemed to be Firm's Notice to Proceed and Firm may commence performance of Work Order Work upon Firm's receipt of said approved Work Order.

Firm shall submit invoices to the City no more than once a month accompanied by supporting documentation as required by the Agreement, including being in such form and containing such detail and backup documentation as the City may from time to time require. At a minimum, invoices shall show the above P.O. Number, Work Order No., and Total Compensation together with previously invoiced amounts and amounts currently requested. Invoices should be sent to: **City Project Manager c/o Ana Hawes-Verbeek, Contract Administration, 306 E. Jackson St., 4N, Tampa, FL 33602 (813-274-8438) or to Ana.Hawes-Verbeek@tampagov.net** Where subcontracting exists, invoices must be accompanied by a signed and completed *Form MBD-30 DMI Sub-(Contractors/Consultants/ Suppliers) Payments*.

(End of Exhibit B)

Exhibit C

CITY OF TAMPA INSURANCE REQUIREMENTS

Prior to commencing any work or services or taking occupancy under that certain written agreement or award (for purposes of this document, Agreement) between the City of Tampa, Florida (City) and Firm/Awardee/Contractor/Consultant/Lessee/non-City party, etc. (for purposes of this document, Firm) to which this document is attached and incorporated as an Exhibit or otherwise, and continuing during the term of said Agreement (or longer if the Agreement and/or this document so requires), Firm shall provide, pay for, and maintain insurance against claims for injuries to persons (including death) or damages to property which may arise from or in connection with the performance of the Agreement (including without limitation occupancy and/or use of certain property/premises) by Firm, its agents, representatives, employees, suppliers, subtenants, or subcontractors (which term includes sub-consultants, as applicable) of any tier subject to the terms and conditions of this document. Firm's maintenance of insurance coverage as required herein is a material element of the Agreement and the failure to maintain or renew coverage or provide evidence of same (defined to include without limitation Firm's affirmative duty to provide from time to time upon City's request certificates of insurance, complete and certified copies of Firm's insurance policies, forms, and endorsements, information on the amount of claims payments or reserves chargeable to the aggregate amount of coverage(s) whether during the term of the Agreement or after as may be requested by the City in response to an issue or potential claim arising out of or related to the Agreement to which Firm's insurance obligations hereunder may apply or possibly help mitigate) may be treated as a material breach of the Agreement. Should at any time Firm not maintain the insurance coverages required, City at its sole option (but without any obligation or waiver of its rights) may (i) terminate the Agreement or (ii) purchase such coverages as City deems necessary to protect the itself (charging Firm for same) and at City's option suspending Firm's performance until such coverage is in place. If Firm does not reimburse City for such costs within 10 days after demand, in addition to any other rights, City shall also have the right to offset such costs from amounts due Firm under any agreement with the City. All provisions intended to survive or to be performed subsequent to the expiration or termination of the Agreement shall survive, including without limitation Firm's obligation to maintain or renew coverage, provide evidence of coverage and certified copies of policies, etc. upon City's request and/or in response to a potential claim, litigation, etc.

The City reserves the right from time to time to modify or waive any or all of these insurance requirements (or to reject policies) based on the specific nature of goods/services to be provided, nature of the risk, prior experience, insurer, coverage, financial condition, failure to operate legally, or other special circumstances. If Firm maintains broader coverage and/or higher limits than the minimums shown herein, the City requires and shall be entitled to such broader coverage and/or higher limits maintained by Firm. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City. No representation is made that the minimum insurance requirements are sufficient to cover Firm's interests, liabilities, or obligations. Required insurance shall not limit Firm's liability.

Firm acknowledges and agrees Firm and not the City is the party in the best position to determine applicability (e.g. "IF APPLICABLE"), confirm, and/or verify its insurance coverage. Acceptance by the City, or by any of its employees, representatives, agents, etc. of certificates or other documentation of insurance or policies pursuant to the terms of this document and the Agreement evidencing insurance coverages and limits does not constitute approval or agreement that the insurance requirements have been met or that coverages or policies are in compliance. Furthermore, receipt, acceptance, and/or approval of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its employees, representatives, agents, etc., which indicate less coverage than required does not constitute a waiver of Firm's obligation to fulfill these insurance requirements.

MINIMUM SCOPE AND LIMIT OF INSURANCE ¹

A. Commercial General Liability (CGL) Insurance on the most current Insurance Services Office (ISO) Form CG 00 01 or its equivalent on an "occurrence" basis (Modified Occurrence or Claims Made forms are not acceptable without prior written consent of the City). Coverage must be provided to cover liability contemplated by the Agreement including without limitation premises and operations, independent contractors, contractual liability, products and completed operations, property damage, bodily, personal and advertising injury, contractual liability, explosion, collapse, underground coverages, personal injury liability, death, employees-as-insureds. Products and completed operations liability coverage maintained for at least 3 years after completion of work. Limits shall not be less than \$1M per occurrence and \$2M general aggregate for Agreements valued at \$2M or less; if valued over \$2M, a general aggregate limit that equals or exceeds the Agreement's value. If a general aggregate limit applies, it shall apply separately to the project/location (ISO CG 25 03 or 25 04 or equivalent). **(ALWAYS APPLICABLE)**

B. Automobile Liability (AL) Insurance in accordance with Florida law, as to the ownership, maintenance, and use of all owned, non-owned, leased, or hired vehicles. AL insurance shall not be less than: (a) \$500,000 combined single limit each occurrence bodily injury and property damage for Agreements valued at \$100,000 or less or (b) \$1M combined single limit each occurrence bodily injury and property damage for Agreements valued over \$100,000. If transportation of hazardous material involved, the MCS-90 endorsement (or equivalent). **(ALWAYS APPLICABLE)**

C. Worker's Compensation (WC) & Employer's Liability Insurance for all employees engaged under the Agreement, Worker's Compensation as required by Florida law. Employer's Liability with minimum limits of (a) \$500,000 bodily injury by accident and each accident, bodily injury by disease policy limit, and bodily injury by disease each employee for Agreements valued at \$100,000 and under or (b) \$1M bodily injury by accident and each accident, bodily injury by disease policy limit, and bodily injury by disease each for all other Agreements. **(ALWAYS APPLICABLE)**

D. Excess (Umbrella) Liability Insurance for Agreements valued at \$2M or more, at least \$4M per occurrence in excess of underlying limits and no more restrictive than underlying coverage for all work performed by Firm. May also compensate for a deficiency in CGL, AL, or WC. **(ALWAYS APPLICABLE)**

E. Builder's Risk Insurance for property loss exposure associated with construction/renovation/additions to buildings or structures, including materials or fixtures to be incorporated. Must be "All Risk" form with limits of no less than

the project's completed value, have no coinsurance penalties, eliminate the "occupancy clause", cover Firm (together with its contractors, subcontractors of every tier, and suppliers), and name City as a Loss Payee. **(IF APPLICABLE)**

F. Installation Floater coverage for property (usually highly valued equipment or materials such as compressors, generators, etc.) during its installation. Coverage must be "All Risk" including installation and transit for no less than 100% of the installed replacement cost value. **(IF APPLICABLE)**

G. Architects & Engineers Liability/ Professional Liability (E&O)/ Contractors Professional Liability (CPrL)/ Medical Malpractice Insurance where Agreement involves Florida-regulated professional services (e.g. architect, engineer, design-builder, CM, accountant, appraiser, investment banker medical professional) at any tier, whether employed or independent, vicarious design liability exposure (e.g. construction means & methods, design supervision), value engineering, constructability assessments/reviews, BIM process, and/or performance specifications. Limits of at least \$1M per occurrence and \$2M aggregate; deletion of design/ build liability exclusions, as applicable, and maintained for at least 3 years after completion of work/services and City's acceptance of same. **(IF APPLICABLE)**

H. Railroad Protective Liability (RPL) Insurance for construction within 50ft of operated railroad track(s) or where affects any railroad bridge, trestle, tunnel, track(s) roadbed, or over/under pass. Subject to involved rail road's approval prior to commencement of work. **(IF APPLICABLE)**.

I. Pollution and/or Asbestos Legal Liability Insurance where Agreement involves asbestos and/or environmental hazards/contamination risks (defined broadly, e.g. lead, mold, bacteria, fuel storage, underground work, cleanup (owned or non-owned sites), pollutant generation/transportation, marine/natural resource damage, contamination claim, restitution, business interruption, mold, fungus, lead-based paint, 3rd party claims/removal, etc.), with limits of at least \$1M per occurrence and \$2M aggregate, main-tained for at least 3 years after Agreement completion. **(IF APPLICABLE)**

J. Cyber Liability Insurance where Agreement involves portals allowing access to obtain, use, or store data; managed dedicated servers; cloud hosting services; software/hardware; programming; and/or other IT services and products are involved. Limits of not less than \$2M per occurrence and \$2M aggregate. Coverage sufficiently broad to respond to duties and obligations undertaken by Firm, and shall include, but not be limited to, claims involving

¹ "M" indicates million(s), for example \$1M is \$1,000,000

infringement of intellectual property/copyright, trademark, trade dress, invasion of privacy violations, damage to or destruction of electronic information, information theft, release of confidential and/or private information, alteration of electronic information, extortion, virus transmission, and network security. Coverage, as applicable and with sufficient limits to respond, for breach response costs, regulatory fines and penalties, credit monitoring expenses. **(IF APPLICABLE)**

K. Drone/UAV Liability Insurance where Agreements involves unmanned aerial vehicles/drones. Coverage to include products and completed operations, property damage, bodily injury with limits no less than \$1M per occurrence, and \$2M aggregate; may be provided by CGL endorsement subject to City's prior written approval. **(IF APPLICABLE)**

L. Longshore & Harbor Workers' Compensation Act/Jones Act for work being conducted near, above, or on "navigable waters" for not less than the above Employer's Liability Insurance limit. **(IF APPLICABLE)**

M. Garagekeeper/Hangerkeeper/Marina Operator Legal Liability Insurance and/or Hull/P&I Insurance where parking lot, valet, dealership, garage services, towing, etc. and/or operation of a hangar, marina, or air plane/ship repairer, providing safe berth, air/watercraft storage/docking (on land/ in water), fueling, tours, charters, ferries, dredges, tugs, mooring, towing,

boat/aircraft equipment/repair/alteration/maintenance, etc.; cover-age against liability for damage to vehicles air/watercraft, their machinery in Firm's care, custody, or control both private & commercial. Limits at least equal to greater of \$1M, value of max number of vehicles that may be in Firm's custody, or of most costly object in Firm's custody. **(IF APPLICABLE)**

N. Property Insurance and Interruption of Business (IOB) Insurance where premises, building, structure, or improved real property is leased, licensed, or otherwise occupied by Firm. Property Insurance against all risks of loss to any occupant/tenant improvements at full replacement cost with no coinsurance penalty, including fire, water, leak damage, and flood, as applicable, vandalism and malicious mischief endorsements. IOB by which minimum monthly rent will be paid to City for up to 1 year if premises are destroyed, rendered inaccessible or untenable, including disruption of utilities, water, or telecommunications. **(IF APPLICABLE)**

O. Liquor Liability/Host Liquor Liability where Firm directly or indirectly provides alcoholic beverages, limits of at least \$1M per occurrence and \$1M aggregate. **(IF APPLICABLE)**

P. Educators Legal Liability Insurance where day care, after school program, recreational activities, etc. limits per G above. **(IF APPLICABLE)**

ADDITIONAL REQUIREMENTS

ACCEPTABILITY OF INSURERS - Insurance is to be placed with insurers admitted in the State of Florida and who have a current A.M. Best rating of no less than **A-:VII** or, if not rated by A.M. Best, as otherwise approved by the City in advance and in writing.

ADDITIONAL INSURED - **City, its elected officials, departments, officers, officials, employees, and volunteers together with, as applicable, any associated lender of the City shall be covered as additional insureds on all liability coverage** (e.g. CGL, AL, and Excess (Umbrella) Liability) as to liability arising out of work or operations performed by or on behalf of Firm including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of Firm. Coverage can be provided in the form of an endorsement to Firm's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 10 20, CG 20 26, CG 20 33, or CG 20 38 **and** CG 20 37 if later revisions used).

CANCELLATION/NON-RENEWAL - Each insurance policy shall provide that at least 30 days written notice must be given to City of any cancellation, intent to non-renew, or material reduction in coverage (except aggregate liability limits) and at least 10 days' notice for non-payment of premium. Firm shall also have an independent duty to notify City in like manner, within 5 business days of Firm's receipt from its insurer of any notices of same. If any policy's aggregate limit is reduced, Firm shall directly take steps to have it reinstated. Notice and proof of renewal/continued coverage/certifications, etc. shall be sent to the City's notice (or Award contact) address as stated in the Agreement with a copy to the following: Contract Administration Dept, 306 E Jackson St, Tampa, FL 33602
 Other: _____

CERTIFICATE OF INSURANCE (COI) - to be provided to City by insurance carrier prior to Firm beginning any work/services or taking occupancy and, if the insurance expires prior to completion of the work or services or Agreement term (as may be extended), a renewal COI at least 30 days before expiration to the above address(es). COIs shall specifically identify the Agreement and its subject (project, lease, etc.), shall be sufficiently comprehensive to insure City (named as additional insured) and Firm and to certify that coverage extends to subcontractors' acts or omissions, and as to permit the City to determine the required coverages are in place without the responsibility of examining individual policies. **Certificate Holder must be The City of Tampa, Florida.**

CLAIMS MADE - If any liability insurance is issued on a claims made form, Firm agrees to maintain such coverage uninterrupted for at least 3 years following completion and acceptance of the work either through purchase of an extended reporting provision or purchase of successive renewals. The Retroactive Date must be shown and be a date not later than the earlier of the Agreement date or the date performance/occupancy began thereunder.

DEDUCTIBLES/ SELF-INSURED RETENTIONS (SIR) - must be disclosed to City and, if over \$500,000, approved by the City in advance and in writing, including at City's option being guaranteed, reduced, or eliminated (additionally if a SIR provides a financial guarantee guaranteeing payment of losses and related investigations, claim administration, and defense expenses). Firm shall be fully responsible for any deductible or SIR (without limiting the foregoing a policy with a SIR shall provide or be endorsed to provide that the SIR may be satisfied by either the City or named insured). In the event of loss which would have been covered but for a deductible or SIR, City may withhold from any payment due Firm, under any agreement with the City, an amount equal to same to cover such loss should full recovery not be obtained under the policy.

PERFORMANCE - All insurance policies shall be fully performable in Hillsborough County, Florida (the County), and construed in accordance with Florida law. Further, all insurance policies must expressly state that the insurance company will accept service of process in the County and that the exclusive venue for any action concerning any matter under those policies shall be in the appropriate state court of the County.

PRIMARY POLICIES - Firm's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as to the City, its elected officials, departments, officers, employees, and volunteers. Any insurance or self-insurance maintained by the City, its elected officials, departments, officers, employees, and volunteers shall be excess of the Firm's insurance and shall not contribute with it.

SUBCONTRACTORS/INDEPENDENT ASSOCIATES/CONSULTANTS/SUBTENANTS/SUBLICENSEE - **Firm shall require and verify that all such entities maintain insurance meeting all requirements stated herein with the City as an additional insured** by endorsement (ISO FORM CG 20 38, or broader) or otherwise include such entities within Firm's insurance policies. Upon City's request, Firm shall furnish complete and certified copies of copies of such entities' insurance policies, forms, and endorsements.

SUBCONTRACTOR DEFAULT INSURANCE, CONTROLLED INSURANCE PROGRAM, WRAP-UP. Use requires express prior written consent of City Risk Manager.

UNAVAILABILITY - To the fullest extent permitted by law, if Firm is out of business or otherwise unavailable at the time a claim is presented to City, Firm hereby assigns to the City all of its right, title and interest (but not any liabilities or obligations) under any applicable policies of insurance.

WAIVER OF SUBROGATION - With regard to any policy of insurance that would pay third party losses, Firm hereby grants City a waiver of any right to subrogation which any insurer of Firm may acquire against the City by virtue of the payment of any loss under such insurance. Firm agrees to obtain any endorsement that may be necessary to affect such waiver, but this provision shall apply to such policies regardless.

WAIVER/RELEASE AGREEMENT - Where Firm has a defined group of persons who might be exposed to harm (e.g. participants in an athletic event/program, volunteers) any waiver or release agreement used by Firm whereby such persons (and their parent/guardian as applicable) discharge Firm from claims and liabilities, shall include the City, its elected officials, departments, officers, officials, employees, and volunteers to the same extent as Firm.

End of Exhibits.