

**THE CITY OF ST. AUGUSTINE
REQUEST FOR PROPOSALS**

The City of St. Augustine (“City”) requests that interested parties respond to the solicitation below by February 1, 2018. Further information is available through Onvia DemandStar at, or the City’s website at www.staugustinegovernment.com. Proposal packages may be obtained from Onvia DemandStar www.demandstar.com [(800) 711-1712] or by contacting the City of St. Augustine by emailing or calling Vicki Wilder at vwilder@citystaug.com 904-825-1010.

**COMMUNITY REDEVELOPMENT AREA ADMINISTRATOR
REQUEST FOR PROPOSAL NUMBER PB2018-01**

The City of St. Augustine is seeking a qualified consultant to 1) administer the Lincolnville Redevelopment Plan with the Lincolnville Community Redevelopment Area (LCRA) Steering Committee, the St. Augustine Community Redevelopment Agency, the general public, and as necessary city staff, and other citizen boards, as well as 2) the Historic Area Transportation and Parking Redevelopment Plan with the St. Augustine Community Redevelopment Agency (City Commission), the general public, and as necessary city staff, and other citizen boards.

The non-mandatory pre-proposal conference is intended to provide respondents the opportunity to receive clarification of any requirement of this Request For Proposals.

**NON-MANDATORY PRE-PROPOSAL CONFERENCE
WEDNESDAY, JANUARY 10, 2018
10:00 A.M. EST**

City of St. Augustine
75 King Street
Lobby D, 4th Floor
General Services Conference Room
St. Augustine, Florida 32084

Every request for written interpretation or correction must be received by JANUARY 24, 2018

REQUEST FOR PROPOSALS DUE: THURSDAY, FEBRUARY 1, 2018, AT 2:00 P.M. EST

REQUEST FOR PROPOSALS OPENING: THURSDAY, FEBRUARY 1, 2018, AT 2:15 P.M. EST

The City's Evaluation Committee will meet at City Hall as follows:

- 10:00 a.m. and 2:00 p.m. on Thursday, February 8, 2018 to:
 - Discuss the responses
 - Finalize the initial ranking
 - Determine a shortlist of Respondents
 - Decide if oral presentations (by the shortlisted Respondents) are necessary to assist in facilitating the evaluation process in determining a final recommendation
 - All Respondents will be notified in writing of the staff's intended recommendation to the City Manager
 - Decide to proceed with negotiations with the top-ranked Respondent(s), as authorized by the City Manager

- 10:00 a.m., Wednesday, February 14, 2018 to:
 - Receive oral presentations by the shortlisted Respondents (if necessary), which will immediately be followed by an Evaluation Committee meeting to establish the final ranking. Respondents selected for oral presentations will be notified in advance of the presentation date.
 - However, if oral presentations are not required, negotiations may commence at 10:00 a.m.
 - Key team personnel, especially the project manager, facilitators, partners and subconsultants assigned to the project should endeavor to be present (face-to-face) at the presentation. Although tele- and video-conferencing is acceptable, it is not preferred.

- 10:00 a.m., Tuesday, February 20, 2018 to:
 - Enter into negotiations with the top-ranked Respondent(s); however, if oral presentations are not required, negotiations may commence with the top-ranked Respondent(s) on the Oral Presentation Date noted above.
 - If negotiations fail with the highest-ranked Respondent, negotiations will proceed with the next highest ranked Respondent, and so forth.

Special accommodations for disabilities may be requested through Vicki Wilder, or by calling 904-825-1010 at least five (5) business days before the date needed.

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INSTRUCTIONS TO RESPONDENTS

1. DEFINITIONS

The definitions of capitalized terms used in this solicitation that are not otherwise defined herein can be found in the sample contract document (“Agreement”) that is at the end of these instructions. The Agreement includes these Instructions to Respondents, any addenda published by the City, the proposal submitted by Respondent (“Proposal”), and all required certifications and affidavits.

2. PROCUREMENT SPECIALIST

All inquiries related to this solicitation should be directed to the Procurement Specialist

Jill Collins Gugal, Procurement Specialist
 Phone: 904-209-4316
 Fax: 904-825-1051
 Email: jgugal@citystaug.com

3. WHERE TO DELIVER PROPOSAL

All Proposals must be submitted in sealed envelopes with the Proposal number and Proposal opening time and date (as advertised) clearly marked in large, bold, and/or colored lettering to:

City of St. Augustine
 Request for Proposals
 Attention: Office of the City Manager
 75 King Street, 4th Floor, Lobby A
 St. Augustine, Florida 32084

Please note that the United States Postal Service does not deliver regular mail or express mail to the above physical address. The City’s experience is that Federal Express and United Parcel Service will. Respondents should allow sufficient time for delivery to either address.

4. PROPOSAL DUE DATE

Bids are due by 2:00 p.m. EST on THURSDAY, FEBRUARY 1, 2018

5. PROPOSAL OPENING

Respondents or their authorized agents are invited to attend the Proposal opening. The Proposals will be opened and read at the following time and place:

2:15 P.M. EST, THURSDAY, FEBRUARY 1, 2018
 City of St. Augustine
 General Services Conference Room
 75 King Street
 Lobby “D”, 4th Floor
 St. Augustine, FL 32084

The Florida Public Records Act, Section 119.071(1)(b), F.S., exempts sealed Proposals from inspection, examination, and duplication until such time as the City issues a notice of decision (Notice of Award) or intended decision (Notice of Intent to Award) pursuant to Section 120.57(3)(a), F.S. or within thirty (30) days after the Proposal opening, whichever comes first. This exemption is not waived by the public opening of the Proposals.

Unless otherwise exempt, Respondent's submittal is a public record that is subject to disclosure upon expiration of the above exemption. If any information submitted with the bid is a trade secret as defined in Section 812.081, F.S., and exempt from disclosure pursuant to Section 815.04, F.S., Respondent must clearly identify any such material as "CONFIDENTIAL TRADE SECRET" in its submittal and explain the basis for such exemption. The City reserves the right, in its sole judgment and discretion, to reject a submittal for excessive or unwarranted assertion of trade secret confidentiality and return the submittal to Respondent.

6. PREPARATION AND ORGANIZATION OF PROPOSAL DOCUMENTS

Respondents must submit the following fully executed documents on reproduced copies of the attached forms provided in FORMS:

- a. Proposal Form
- b. Cost Schedule
- c. Proposed Subcontractors
- d. Certificate as to Corporation
- e. Qualifications (General, Similar Projects, and References)
- f. Drug-Free Workplace Form (not required unless there is a tie)

Respondents shall submit one (1) original and a minimum of three (3) additional copies of the Proposal package. Please identify the original Proposal as "ORIGINAL." In order to assist the City's review process, **each submittal package shall be bound or submitted in three-ring binders with tabbed dividers for each Criteria** identified in the Evaluation Criteria. (i.e. Tab 1 – Background and Qualifications, Tab 2 – Personnel, etc.). Responses may be submitted on reproduced copies of the attached forms. Respondents shall specify the Total Proposal Cost for the entire work on the cost schedule (page 18). All blank spaces on the required documents shall be typewritten or printed in ink.

Respondent is encouraged to include as much pertinent data and information under each section as necessary to ensure proper evaluation of its qualifications. Each section shall be evaluated separately on its own merit.

Standard brochures and specifications may be submitted as additional material, but shall not be submitted as the primary qualification data.

In the event you decline to submit a Proposal, the City would appreciate submittal of the "No Response Form" provided at the end of the "FORMS" section to describe the reason for not submitting a Proposal.

BY SUBMITTING A PROPOSAL PACKAGE, RESPONDENTS ACKNOWLEDGE THAT THE CITY'S STANDARD CONTRACT FORM WILL BE USED. ANY DELAYS CAUSED DUE TO RESPONDENT'S FAILURE TO ACCEPT THE TERMS OF THE STANDARD CONTRACT FORM AFTER THE SUCCESSFUL PROPOSAL HAS BEEN AWARDED MAY RESULT IN REJECTION OF THE PROPOSAL.

7. INQUIRIES AND ADDENDA

City staff are not authorized to orally interpret the meaning of the specifications or other Agreement documents, or correct any apparent ambiguity, inconsistency, or error therein. In order to be binding upon the City, the interpretation or correction must be given by the Procurement Specialist and must be in writing. The Procurement Specialist may orally explain the City's procedures and assist Respondents in referring to any applicable provision in the Proposal documents, but the Respondent is ultimately responsible for submitting the Proposal in the appropriate form and in accordance with written procedures.

Every request for a written interpretation or correction must be received at least nine (9) days prior to opening of Proposals in order to be considered (01/24/2018). Requests may be submitted by e-mail at jgugal@citystaug.com. Interpretations, corrections, and supplemental instructions will be communicated by written addenda to this solicitation posted by Onvia DemandStar to all prospective Respondents (at the respective addresses furnished for such purposes) not later than five (5) days prior to the date fixed for the opening of Proposals (01/26/2018).

Submission of a Proposal constitutes acknowledgment of receipt of all addenda. Proposals will be construed as though all addenda had been received. Failure of the Respondent to receive any addenda does not relieve Respondent from any and all obligations under the Proposal, as submitted. All addenda become part of the Agreement.

8. MINIMUM QUALIFICATIONS

Respondent must use the "Qualification" forms (GENERAL, SIMILAR PROJECTS, and REFERENCES) provided in these documents to document the minimum qualifications listed below. Failure to include these forms with the Proposal may be considered non-responsive.

- a. Respondent must have completed at least three (3) Community Redevelopment Projects or projects of a similar nature in the past three (3) years by the individual, firm, or project manager assigned to the Work.
- b. Respondent must have no less than five (5) years of experience on projects of the nature specified above. (Include documentation to justify five years of experience.)
- c. Respondent must provide three letters of reference. At least one of the references must be from the similar projects listed in response to sub-paragraph (a) above. No more than one of the references may be from completed City projects.

Irrespective of the minimum qualifications stated above, the City may make such investigations as it deems necessary to determine the ability of the Respondent to perform the Work. The City reserves the right to reject any Proposal if the evidence submitted by such Respondent and/or the City's independent investigation of such Respondent fails to satisfy the City that such Respondent is properly qualified to carry out the obligations of the Agreement and complete the Work in a manner acceptable to the City within the time period specified.

9. PROPOSAL GUARANTY

For the purposes of this solicitation, a Proposal guaranty is not required.

10. SUBCONTRACTS

Respondent must identify all portions of the Work Respondent intends to perform through subcontractors for each portion of the Work exceeding ten percent (10%) of the Total Proposal Cost on the attached "Proposed Subcontractors" form. Respondent must submit with its Proposal a list of all known subcontractors who will be paid more than ten percent (10%) of the Total Proposal Cost. Acceptance of the Proposal does not constitute approval of the subcontractors identified with the proposal.

11. SIGNATURE AND CERTIFICATION REQUIREMENTS

An individual submitting a Proposal must sign his/her name therein and state his/her address and the name and address of every other person interested in the Proposal as principal. If a firm or partnership submits the Proposal, state the name and address of each member of the firm or partnership. If a corporation submits the Proposal, an authorized officer or agent must sign the Proposal, subscribing the name of the corporation with his or her own name and affixing the corporate seal. Such officer or agent must also provide the name of the state under which the corporation is chartered, and the names and business addresses of the President, Secretary, and Treasurer. Corporations chartered in states other than Florida must submit evidence of registration with the Florida Secretary of State for doing business in the State of Florida. Respondent must certify that all persons or entities having an interest as principal in the submittal of the Proposal or in substantial performance of the Work have been identified in the Proposal forms.

12. LOCAL BUSINESS PURCHASING

I. Policy Statement

The City Commission hereby adopts a Local Business Purchasing Preference Policy as set forth herein.

II. Definitions

- A. *Construction services* means all labor, services and materials provided in connection with the construction, alteration, repair, demolition, reconstruction or any other improvements to a City facility or real property.
- B. *General services* means support services performed by an independent contractor requiring specialized knowledge, experience or expertise that includes, but is not limited to, pest control, janitorial services, laundry services, catering services, security services, lawn maintenance services and maintenance of equipment.
- C. *Goods* means, but is not limited to, supplies, equipment, materials and printed matter.
- D. *Local business* means the vendor holds a valid business tax receipt issued by the City of St. Augustine or St. Johns County issued at least one (1) year prior to bid or proposal submittal and uses a business address physically located within the territorial limits of St. Johns County in an area zoned for the conduct of such business, from which the vendor operates a business or performs business services

on a day-to-day basis, provided that a substantial component of the goods or services being offered go to the City of St. Augustine. Firms which provide goods or services which are exempt from City of St. Augustine and St. Johns County business tax receipt requirements shall be required to submit documentation satisfactory to the City demonstrating the physical business presence of the firm within the limits of St. Johns County for at least one (1) year prior to bid or proposal submission. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, the vendor must provide, prior to recommendation for award, a copy of the current and valid business tax receipt issued at least one (1) year prior to bid or proposal submission or copies of other documentation demonstrating the physical business presence of the vendor within the limits of St. Johns County for at least one (1) year prior to bid or proposal submission.

- E. *Locally-headquartered business* means a local business as defined in this section which operates from a principal place of business located within the municipal boundaries of the City of St. Augustine.
- F. *Principal place of business* means the “nerve center,” the place where the bidder or the bidder’s corporate officers direct, control and coordinate the activities of the bidder. If the bidder operates only one (1) business location, such business location shall be considered its Principal Place of Business.
- G. *Professional services* means advice, instruction or specialized work from an individual, firm or corporation specifically qualified in a particular area. “Professional services,” for the purposes of this definition, shall not mean those services procured pursuant to Section 287.055, F.S.

III. Local Preference Procedure

Except where otherwise provided by federal or state law or other funding source restrictions, purchases of goods, general services, construction services or professional services under the City’s procurement policy shall give preference to local businesses in the following manner:

- A. Under competitive bid solicitation, the following shall apply:
 - 1. If the low responsive and responsible bidder is not a Local Business or a Locally-Headquartered Business, then any and all responsive and responsible Local Businesses submitting a price within five percent (5%) of the low bid, the low bidder and any and all responsive and responsible Locally-Headquartered Businesses submitting a price within ten percent (10%) of the low bid shall have an opportunity to submit a best and final bid equal to or lower than the low bid.
 - 2. If the low bidder is a Local Business but not a Locally-Headquartered Business, then any and all responsive and responsible Locally-Headquartered Businesses submitting a price within five percent (5%) of the low bid and the low bidder shall have an opportunity to submit a best and final bid equal to or lower than the low bid.

3. The award, if any, shall be made to the responsive and responsible bidder offering the lowest best and final bid.

B. Ties in the best and final bid shall be resolved in the following order: Locally-Headquartered Business, Local Business, other business. If a tie still exists, then the tie may be broken using the tie breaker criteria in the procurement policy.

IV. Waiver

The application of local preference to a particular purchase, contract or category of contracts may be waived upon written recommendation of the Director of General Services and approval of the City Manager or his/her designee.

V. Other Preferences

The preferences established herein in no way prohibit the right of the City of St. Augustine to compare quality of materials proposed for purchase and to compare qualifications, past performance, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the City of St. Augustine from giving any other preference permitted by law instead of the preference authorized herein.

VI. Exemption of Certain Contracts

Co-operative purchases shall be exempt unless all participants in the co-operative purchase agree to apply this local preference resolution. In addition, particular categories of contracts may be exempted from application of local preference upon determination by the City Manager that such exemption serves the best interest of the City.

13. DISQUALIFICATION OF RESPONDENTS

Any of the following causes will be considered as sufficient grounds for disqualification of a Respondent and rejection of the Proposal:

- a. Submission of more than one Proposal for the same subject matter by an individual, firm, partnership, or corporation under the same or different names;
- b. Evidence of collusion among Respondents;
- c. Submission of materially false information with the Proposal;
- d. Information gained through checking of references or other sources which indicates that Respondent may not successfully perform the Work;
- e. Respondent is failing to adequately perform on any existing contract with the City;
- f. Respondent has defaulted on a previous contract with the City;
- g. The evidence submitted by Respondent, or the City's investigation of Respondent, fails to satisfy the City that Respondent is properly qualified to carry out the obligations of the Agreement in a manner acceptable to the City and within the time period specified;
- h. Any other cause that is sufficient to raise doubt regarding the ability of a Respondent to perform the Work in a manner that meets the City's objectives for the Work.

14. REJECTION OF PROPOSAL

Proposals must be delivered to the specified location and received before the Proposal opening in order to be considered. Untimely Proposals will be returned to the Respondent unopened. Proposals will be considered irregular and may be rejected if they show material omissions, alterations of form, additions not called for, conditions, limitations, unauthorized alternate Proposals, or other material irregularities. The City may consider incomplete any Proposal not prepared and submitted in accordance with the provisions specified herein, and reserves the right to waive any minor deviations or irregularities in an otherwise valid Proposal.

THE CITY RESERVES THE RIGHT TO REJECT ANY AND ALL PROPOSALS WHEN IT DETERMINES, IN ITS SOLE JUDGMENT AND DISCRETION THAT IT IS NOT IN ITS BEST INTEREST TO AWARD THE AGREEMENT.

15. WITHDRAWAL OF PROPOSALS

Respondent may withdraw its Proposal if it submits such a written request to the City prior to the designated date and hour of Proposal opening. Respondent may be permitted to withdraw its Proposal no later than 72 hours after the Proposal opening for good cause, as determined by the City in its sole judgment and discretion.

16. EVALUATION AND AWARD PROCEDURES

Proposals will be evaluated by a staff Evaluation Committee based upon the criteria and weighting set forth in "EVALUATION CRITERIA." The committee members will meet at City Hall or other location as appropriate to discuss the Proposals and their individual evaluations. Each committee member completes an evaluation form, from which the overall ranking of Proposals is compiled. Evaluation forms may be submitted at or subsequent to the Evaluation Committee meeting. If it is determined that it will assist the committee's evaluation for some or all Respondents to make an oral presentation, such presentations will be scheduled at City Hall other location as appropriate. Following the evaluation process, contract negotiations will commence with the Respondent submitting the highest-ranked Proposal. If negotiations fail with the highest-ranked Respondent, negotiations will proceed with the next highest-ranked Respondent, and so forth.

All Respondents will be notified in writing of the committee's intended recommendation to the City Manager regarding award of the Agreement. Alternatively, the committee may elect to submit the final ranking to the City Manager for approval prior to commencement of negotiations and, upon approval of the ranking of Proposals, commence negotiations and execute an agreement without further action by the City Manager. All Respondents will then be notified in writing of the committee's intended award of the Agreement.

The Agreement will be awarded to the Respondent having the highest ranked Proposal, which successfully concludes negotiations with the City (the "Successful Respondent"). The Agreement may be modified based on the City's acceptance of any alternatives listed in the Proposal that the City deems in its best interest.

If two or more Proposals are equal in all respects, the Agreement will be awarded as follows: (1) to the Respondent that certifies compliance with Section 287.087, F.S., *via* the Drug-Free Workplace Form; or (2) by lot.

The City reserves the right to award the Agreement to the next highest ranked and available

Respondent in the event the Successful Respondent fails to enter into the Agreement, or the Agreement with said Respondent is terminated within ninety (90) days of the effective date.

All Respondents will be notified of the City's intent to award or decision to award the Agreement. For the purpose of filing a protest under Section 120.57(3), F.S., the time period will commence as provided in "NOTICES AND SERVICES THEREOF."

EVALUATION CRITERIA

Responses shall include information or documentation regarding, and will be evaluated using, the following evaluation criteria:

	Criteria	Weight	Score	Total
1	Background and Qualifications a) Knowledge of subject b) Past performance c) Ability to meet needs and perform work d) Equipment and availability	.10		
2	Personnel a) Qualifications and resumes b) Hours committed to project c) Names and functions of personnel assigned d) Special expertise of personnel	.10		
3	References List all similar projects (up to the past 3 years) Letters of reference from at least two of those listed on the REFERENCES form.	.05		
4	Project Management a) Allocation of staff b) Management methods c) Identify sub-consultants d) Commitment to project responsibilities within time and budget constraints	.05		
5	Technical Merit a) QA/QC Methods b) Approach - scientific, technical, and analytical c) Completeness of proposal d) Clarity of proposal e) Ability to meet time constraints f) Adequately addresses project objectives	.10		

6	<p>Cost Effectiveness</p> <p>The Respondent whose proposal is the lowest will receive a Cost Effectiveness score of 10. All other responses equal to or lower than the City's budget will be scored proportionately.</p>	.50		
7	<p>Location of Respondent's Management Office/Project Manager to the project area. Higher consideration will be given to firms whose managing firm/project manager is located nearest to the project area. The website maps.google.com (using the "Shortest" route type) should be utilized to determine mileage. The City will award points as follows:</p> <ul style="list-style-type: none"> • >0 but ≤ 10 miles of the project area = 10 points • 11 but ≤ 30 miles from of the project area = 7 points • 31 but ≤ 60 miles from of the project area = 4 points • > 60 miles from of the project area = 0 points 	.10		
TOTAL		100		

Evaluation Rating Scale - 1 through 10:

More than adequate	8 - 10
Adequate	5 - 7
Less than adequate.....	1 - 4
Not covered in proposal	0

17. EXECUTION OF AGREEMENT

Submittal of a Proposal binds the Successful Respondent to perform the Work upon acceptance of the Proposal and execution of the Agreement by the City.

Unless all Proposals are rejected, a contract substantially in the form included in these documents will be provided to the Successful Respondent, who must execute and return the Agreement to the City within ten (10) days of the date of receipt, along with the following:

- a. A performance and payment bond (if applicable);
- b. A completed Internal Revenue Service Form W-9;
- c. Satisfactory evidence of all required insurance coverage;
- d. Proof satisfactory to the City of the authority of the person or persons executing the Agreement on behalf of Respondent;
- e. All other information and documentation required by the Agreement.

The City will not execute the Agreement until the above documents have been executed and delivered to the City. The Agreement will not be binding until executed by the City. A copy of the fully executed Agreement will be delivered to the Successful Respondent. The City reserves the right to cancel award of the Agreement without liability at any time before the Agreement has been fully executed by all parties and delivered to the Successful Respondent.

Failure upon the part of the Successful Respondent to execute the Agreement or timely submit the required evidence of insurance coverage, or any other matter required by the Agreement, will be just cause, if the City so elects, for the recommended award to be annulled. In such event, the City will be entitled to the full amount of the Proposal guaranty, not as a penalty, but in liquidation of and compensation for damages sustained.

18. EXAMINATION OF AGREEMENT DOCUMENTS AND WORK AREA

Respondent is solely responsible for being fully informed of the conditions under which the Work is to be performed in relation to existing conditions. Respondent is responsible for carefully examining the general area of the Work, the requirements of the drawings and other contract documents related to the Work, the time in which the Work must be completed, and any other details of the Work. Respondent must satisfy itself from its own personal knowledge and experience or professional advice as to the character of the Work, the conditions and materials to be encountered, the character, quality, and quantities of the Work, and any other conditions affecting the Work, including surrounding land.

Failure to satisfy the obligations of this paragraph will not relieve a Successful Respondent of its obligation to furnish all material, equipment, and labor necessary to perform the Agreement and to complete the Work for the consideration set forth in its Proposal. Any such failure will not be sufficient cause to submit a claim for additional compensation.

No verbal agreement or conversation with any City officer, agent or employee, either before or after the execution of the Agreement, will affect or modify any of its terms.

19. DIVERSITY

The City is committed to the opportunity for diversity in the award and performance of all procurement activities. The City encourages its Prime Respondents to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as second and lower tier participants. The City will assist Respondents by sharing information on W/MBEs to encourage their participation.

20. PUBLIC ENTITY CRIMES/DISCRIMINATORY VENDORS

In accordance with Sections 287.133 and 287.134, F.S., a person or affiliate who has been placed on the convicted or discriminatory vendor lists following a conviction for a public entity crime or placement on the discriminatory vendor list 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 Section. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted or discriminatory vendor lists.

21. FLORIDA SALES TAX

The City is exempt from payment of State of Florida sales tax pursuant to Section 212.08(6), F.S. Any tangible personal property that is the subject of this Request for Proposals is intended to remain tangible personal property and not become part of a public work owned by the City.

22. NOTICES AND SERVICES THEREOF

The City will publish notice of specifications and criteria, including addenda, intended agency decisions, or other matters pertinent to this solicitation on Onvia DemandStar at www.demandstar.com. Onvia DemandStar may also be accessed through the City's web site at www.ci.st-augustine.com.

Notices that are posted on Onvia DemandStar are deemed received at 8:00 a.m. on the next business day following the date posted. Notices will be posted for a minimum of 72 hours following the time at which they are deemed received. The time period for filing a Notice of Protest pursuant to Section 120.57(3), F.S., and Rule 28-110.003, Fla. Admin. Code, commences at the time notices are deemed received.

As a courtesy to Respondents, the City may send copies of the notices of intended agency decisions *via* e-mail or facsimile to the address or phone number provided by Respondent. These courtesy communications neither constitute official notice nor vary the times of receipt set forth above.

23. PROTEST PROCEDURES

A. Who May File A Protest:

Any actual or prospective bidder, proposer, offeror or contractor who is aggrieved in connection with a solicitation or award of bid or contract may file a protest with the Director of General Services. Protests relating to cancellation of invitations to bid and protests relating to the rejection of all bids are not permitted.

B. Time for Filing:

If a protest is submitted by a prospective or actual bidder, it must be filed within three (3) business days after such aggrieved person knew or should have known of the facts giving rise thereto, provided the bid award or contract has not been approved by the City Commission, or the contract has not been fully executed if City Commission approval is not necessary. A protest is deemed filed when received by the Director of General Services.

C. Form of Protest:

A protest must be in writing and filed with the Director of General Services, Post Office Box 210, St. Augustine, FL 32085-0210. A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal. The protesting party may submit with the protest any documents or information deemed relevant.

D. Procedures:

- 1) Any person adversely affected by the procurement methodology described herein, or the specifications or criteria, including addenda, associated with this solicitation, shall file a Notice of Protest within three (3) business days after receipt of this solicitation. The protester shall also file with the Director of General Services a Formal Written Protest within 10 days after the date the Notice of Protest is filed with the City. The Formal Written Protest shall state with particularity the facts and law upon which the protest is based.
- 2) No additional time shall be added for mailing. All filings shall be received by the Director of General Services at the City of St. Augustine, Post Office Box 210, St. Augustine, Florida 32085 within the prescribed time periods. The City shall not accept as filed any electronically transmitted facsimile pleadings, petitions, notice of protests or other documents. Failure to file a protest within the time prescribed shall constitute a waiver of proceedings.
- 3) Any person adversely affected by a City decision or intended decision to award a contract, or to reject all bids, proposals, or qualifications, shall file a Notice of Protest within three (3) business days after receipt of the decision or intended decision. The protester shall also file with the Director of General Services a Formal Written Protest within ten (10) days after the date the Notice of Protest is filed with the City. The Formal Written Protest shall state with particularity the facts and law upon which the protest is based.
- 4) No additional time shall be added for mailing. All filings shall be addressed to and received by the Director of General Services at City Hall in St. Augustine, Florida within the prescribed time periods. Failure to file a protest within the time prescribed the protest procedures shall constitute a waiver of protest proceedings.

FORMS

PROPOSAL FORM

(This form to be included in Proposal submittal)

RESPONDENT:

The undersigned, as Respondent, hereby declares and certifies that the only person(s) or entities interested in this Proposal as principal(s), or as persons or entities who are not principal(s) of the Respondent but are substantially involved in performance of the Work, is or are named herein, and that no person other than herein mentioned has any interest in this Proposal or in the Agreement to be entered into; that this Proposal is made without connection with any other person, company, or parties submitting a Proposal; and that this Proposal is in all respects fair and in good faith without collusion or fraud.

Respondent represents to the City that, except as may be disclosed in an addendum hereto, no officer, employee or agent of the City has any interest, either directly or indirectly, in the business of Respondent to be conducted under the Agreement, and that no such person shall have any such interest at any time during the term of the Agreement, should it be awarded to Respondent.

Respondent further declares that it has examined the Agreement and informed itself fully in regard to all conditions pertaining to this solicitation; it has examined the specifications for the Work and any other Agreement documents relative thereto; it has read all of the addenda furnished prior to the Proposal opening, as acknowledged below; and has otherwise satisfied itself that it is fully informed relative to the Work to be performed.

Respondent agrees that if its Proposal is accepted, Respondent shall contract with the City in the form of the attached Agreement, and shall furnish everything necessary to complete the Work in accordance with the time for completion specified in the Agreement, and shall furnish the required evidence of the specified insurance.

Acknowledgment is hereby made of the following addenda (identified by number) received:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Firm name: _____
Signature: _____
Date: _____

COST SCHEDULE

(This form to be included in Proposal submittal)

Proposals are due by 2:00 p.m. EST, Thursday, February 1, 2018

Proposals are to be opened at 2:15 p.m. EST, Thursday, February 1, 2018

To: CITY OF ST. AUGUSTINE

In accordance with the advertisement requesting Proposals for Community Redevelopment Area Administrator, subject to the terms and conditions of the Agreement, the undersigned proposes to perform the Work for the price contained in the following schedule (fill in all blanks).

If said Proposal exceeds the estimated amount previously provided, the City expressly reserves the right to increase, decrease, or delete any class, item, or part of the Work, as may be determined by the City.

Respondents are reminded to refer to "PREPARATION AND ORGANIZATION OF PROPOSAL DOCUMENTS" for information to be included with the Proposal package.

Total Cost Year 1:	\$ _____
Total Cost Year 2:	TBD
Total Cost Year 3:	TBD
Total Cost Year 4:	TBD
Total Cost Year 5:	TBD

I HEREBY ACKNOWLEDGE, as Respondent's authorized representative that I have fully read and understand all terms and conditions as set forth in this Proposal and upon award of such Proposal, shall fully comply with such terms and conditions.

Date

Respondent (firm name)

Address

E-mail address

Signature

Telephone number

Typed name and title

Fax number

PROPOSED SUBCONTRACTORS

(This form to be included in Proposal submittal)

1. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

2. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

3. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

4. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

5. Name and address of subcontractor: _____

Description of work: _____

Estimated value of Work: _____

CERTIFICATE AS TO CORPORATION

(This form to be included in Proposal submittal)

The below Corporation is organized under the laws of the State of _____; is authorized by law to respond to this Request for Proposals and perform all work and furnish materials and equipment required under the Agreement, and is authorized to do business in the State of Florida.

Corporation name: _____

Address: _____

Registration No.: _____

Registered Agent: _____

By: _____

(Official title)

(Affix corporate seal)

Attest: _____

(Secretary)

The full names and business or residence addresses of persons or firms interested in the foregoing Proposal as principals or officers of Respondent are as follows (specifically include the President, Secretary, and Treasurer and state the corporate office held of all other individuals listed):

Identify any parent, subsidiary, or sister corporations involving the same or substantially the same officers and directors that will or may be involved in performance of the Project, and provide the same information requested above on a photocopy of this form.

If applicable, attach a copy of a certificate to do business in the State of Florida, or a copy of the application that has been accepted by the State of Florida to do business in the State of Florida, for the Respondent and/or all out-of-state corporations that are listed pursuant to this form.

QUALIFICATIONS - GENERAL

(This form to be included in Proposal submittal)

As part of the Proposal, Respondent shall complete the following so that the City can determine Respondent's ability, experience, and facilities for performing the Work.

Name of Respondent: _____

Respondent's tax identification No.: _____

Year company was organized/formed: _____

Number of years Respondent has been engaged in business under the present firm or trade name:

Total number of years Respondent has experience in similar work described in Item 8 of the Instructions to Respondents: _____

Has Respondent previously been engaged in the same or similar business under another firm or trade name? If so, please describe each such instance.

Has Respondent ever been adjudicated bankrupt, initiated bankruptcy, or been the subject of bankruptcy proceedings on behalf of the current entity submitting this Proposal or a prior entity that Respondent substantially operated or controlled? If yes, please describe the nature and result of those proceedings and the entity involved.

Describe the background/experience of the person or persons who will be primarily responsible for directing the Work that will be performed pursuant to this Proposal. This inquiry is intended to encompass the project manager and/or superintendent who will be engaged on a daily basis in directing performance of the Work.

QUALIFICATIONS – SIMILAR PROJECTS
(This form to be included in Proposal submittal)

Respondent must have completed at least three (3) Community Redevelopment Area or similar projects, as described at Item 8 of the Instructions to Respondents, in the past three (3) years by the individual, firm, or project manager assigned to the project.

Completed Project #1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____

(month/year)

(month/year)

Name(s) of assigned personnel:

Project manager: _____

Others: _____

Completed Project #2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____

(month/year)

(month/year)

Name(s) of assigned personnel:

Project manager: _____

Others: _____

QUALIFICATIONS – SIMILAR PROJECTS (Continued)
(This form to be included in Proposal submittal)

Completed Project #3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Address of agency/company: _____

Name of project: _____

Description: _____

Project value: _____ Start date: _____ Completion date: _____

(month/year)

(month/year)

Name(s) of assigned personnel:

Project manager: _____

Others: _____

QUALIFICATIONS – REFERENCES
(This form to be included in Proposal submittal)

Respondent shall provide a total of three (3) references, which shall include at least one the similar projects listed above. No more than one (1) reference shall be from the City.

Reference No. 1:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Reference No. 2:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

Reference No. 3:

Agency/company: _____

Current contact person at agency/company: _____

Telephone: _____ Fax: _____ E-mail: _____

Agency/Company Address: _____

Name of project: _____

Description: _____

Project value: _____ Project manager: _____

DRUG-FREE WORKPLACE FORM

The Respondent, (business name) _____, in accordance with Section 287.087, F.S., hereby certifies that Respondent does the following:

1. Publishes a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Notifies employees, via the statement specified in paragraph 1, above, that, as a condition of working on the contractual services that are under Proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or *nolo contendere* to, any violation of Chapter 893, F.S. or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
3. Gives each employee engaged in providing the contractual services that are under Proposal a copy of the statement specified in paragraph 1, above.
4. Informs employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations
4. Imposes a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
5. Makes a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, F.S.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

By: _____

Title _____

Date: _____

NO RESPONSE FORM

**CITY OF ST. AUGUSTINE
COMMUNITY REDEVELOPMENT AREA ADMINISTRATOR
Proposal Number PB2018-01**

Your reasons for not responding to this Request for Proposals are valuable to the City of St. Augustine’s procurement process. Please complete this form and return it to the Division of Purchasing no later than the date set for receipt of Proposals. Thank you for your cooperation.

Please check (as applicable):

- Specifications too “general” (explain below)
- Insufficient time to respond to the Request for Proposals
- Do not provide this type of work for this project
- Schedule would not permit us to perform
- Unable to meet Request for Proposal specifications
- Specifications unclear (explain below)
- Disagree with solicitation or Agreement terms and conditions (explain below)
- Other (specify below)

Remarks: _____

DATE _____

RESPONDENT (FIRM NAME) _____

ADDRESS _____

E-MAIL ADDRESS _____

SIGNATURE

TYPED NAME AND TITLE

TELEPHONE NUMBER

FAX NUMBER

**GENERAL SERVICES AGREEMENT
BETWEEN THE
CITY OF ST. AUGUSTINE
AND XXXX FOR THE
COMMUNITY REDEVELOPMENT AREA ADMINISTRATOR**

THIS AGREEMENT is entered into by and between the CITY OF ST. AUGUSTINE (“the City”), whose address is P. O. Box 210, St. Augustine, Florida 32085-0210, and (“Contractor”), whose address is XXXXX, . All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

In consideration of the payments hereinafter specified, the covenants and conditions of this Agreement, and other good and valuable consideration, the adequacy of which is hereby acknowledged, Contractor agrees to furnish and deliver all materials and perform all services and labor required for (“the Work”). In accordance with RFP #PB2018-01, Contractor shall complete the Work in conformity with this Agreement, which consists of and incorporates all of the following documents: (1) advertisement for proposals; (2) Instructions to Respondents; (3) addenda; certifications, and affidavits; (4) proposal submittals; and (5) this Agreement, including the Scope of Work, Specifications, General Conditions and any Special Conditions or other attachments. If any provision in the body of this Agreement conflicts with any attachment hereto, the terms of this Agreement shall prevail. This Agreement, including attachments, shall take precedence over all solicitation documents (items 1 - 4). The parties hereby agree to the following terms and conditions.

1. TERM OF AGREEMENT

- (a) The term of this Agreement shall run from the Effective Date to the Completion Date. Time is of the essence for each and every aspect of this Agreement. Where additional time is allowed to complete the Work, the new time limit shall also be of the essence. All provisions of this Agreement that by their nature extend beyond the Completion Date shall survive termination or expiration of this Agreement.
- (b) Effective Date. The Effective Date is the date upon which the last party to this Agreement has dated and executed the same.
- (c) Completion Date. The Completion Date of this Agreement is September 30, 2023, unless extended by mutual written agreement of the parties. The Work shall be completed for use no later than said date.
- (d) This Agreement may be renewed by mutual and written consent of each party for no more than a total of five (5) consecutive years.

2. COMMENCEMENT OF WORK

- (a) Contractor shall commence the Work within fifteen (15) days after the Effective Date.

This date shall be known as the “Commencement Date.” Contractor shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Scope of Work and the time for completion stated therein. Contractor shall not commence the Work until any required submittals are received and approved.

3. DELIVERABLES

- (a) The Work is specified in the Scope of Work, Exhibit A. Contractor shall deliver all products and deliverables as stated therein. Contractor is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Contractor shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The City's Project Manager shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- (b) If not otherwise addressed in the Scope of Work, upon written request, Contractor shall submit written progress reports to the City's Project Manager at the frequency requested in the form approved by the Project Manager at no additional cost to the City. The progress report shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report will be cause to withhold payment.

4. OWNERSHIP OF DELIVERABLES

All deliverables, including Work not accepted by the City, are City property when Contractor has received compensation therefor, in whole or in part. Any City source documents or other City or non-City documents, specifications, materials, reports, or accompanying data developed, secured, or used in the performance of the Work, excluding proprietary materials, as outlined in the Statement of Work, are City property and shall be safeguarded and provided to the City upon request. City plans and specifications shall not be used on other work and, with the exception of the original plans and specifications, shall be returned to the City upon request. This obligation shall survive termination or expiration of this Agreement.

5. OWNERSHIP OF WEB PAGES AND GRAPHICS

Copyright to the finished assembled work of web pages and graphics produced by the Contractor shall be vested with the Owner upon final payment for the Work. This ownership is to include design, photographs, graphics, source code, work-up files, text and any program(s) specifically designed or purchased on behalf of the Owner for completion of the Work.

6. CLIENT PROVIDED CONTENT

Owner shall provide clean, accurate content in a suitable format for its website. Contractor is not responsible for spelling, grammatical, syntax or other errors in Owner provided copy unless the parties agree to same in writing. If the Owner provides such documents for editing, the Owner is responsible for providing editable, selectable source files.

7. FUNDING OF AGREEMENT

- (a) For satisfactory performance of the Work, the City agrees to pay Contractor [a sum not to exceed] [\$_] (the "Total Compensation").

8. PAYMENT OF INVOICES

- (a) Contractor shall submit monthly itemized invoices by one of the following two methods: (1) by mail to the City of St. Augustine, Purchasing Division, P. O. Box 210, St. Augustine, FL 32085-0210, or (2) by e-mail to purchasing@citystaug.com. Each invoice shall be submitted in detail sufficient for proper pre-audit and post-audit review. If necessary for audit purposes, Contractor shall provide additional supporting information as required to document invoices.

9. CONTRACT PAYMENT AND COMPLIANCE WITH THE LOCAL GOVERNMENT PROMPT PAYMENT ACT

- (a) Each month, the Contractor shall submit an application for payment for work performed to that point. The Owner will process and issue payment in compliance with the requirements of the Florida Local Government Prompt Payment Act as described below. Final payment in the amount of ten percent (10%) of the total project amount will be retained pending final inspection and acceptance of the project by the Owner and proof of complete payment to all subcontractors and suppliers.
- (b) All invoices shall include the following information: (1) City contract number; (2) City encumbrance number; (3) City work-order number, if applicable; (4) Contractor's name and address (include remit address, if necessary); (5) Contractor's invoice number and date of invoice; (6) City Project Manager or Work Order Manager, if applicable; (7) Contractor's Project Manager; (8) supporting documentation as to cost and/or project completion (as per the cost schedule and other requirements of the Statement of Work; for work-orders, see special requirements under WORK ORDERS); (9) Progress Report (if required); (10) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action, stating the basis for rejection. Payments shall be made within twenty (20) business days of receipt of an approved invoice. Disputes regarding invoice sufficiency are resolved pursuant to the dispute resolution procedure of this Agreement.
- (c) In order to comply with the provisions of the Florida Local Government Prompt Payment Act, the City designates the following as its Agent:
1. Amy Skinner, Deputy Director
Planning and Building Department
City of St. Augustine
P.O. Box 210
St. Augustine, FL 32085-0210
904-209-4320 (Office)
904-209-4355 (fax)
Email: askinner@citystaug.com
 2. The City's Agent is required to review invoices or payment requests prior to processing for payment.
 3. The due date for payment of construction services by the City shall be determined as follows:

- a) If the City's agent must approve the payment request or invoice submitted by the Contractor before the payment request or invoice is submitted to the City, payment shall be due twenty-five (25) business days after the date on which the payment request or invoice is stamped as received as provided in Section 218.74(1), F.S. The Contractor may send the City an overdue notice. If the payment request or invoice is not rejected within four (4) business days after delivery of the overdue notice, the payment request or invoice shall be deemed accepted, except for any portion of the payment request or invoice that is fraudulent or misleading.
 - b) If the City's agent need not approve the payment request or invoice submitted by the Contractor, payment is due twenty (20) business days after the date on which the payment request or invoice is stamped as received as provided in Section 218.74(1), F.S.
 - c) If a payment request or invoice submitted by the Contractor does not meet the contract requirements, the City must reject the payment request or invoice within twenty (20) business days after the date on which the payment request or invoice is stamped as received as provided in Section 218.74(1), F.S. The rejection must be written and must specify the deficiency and the action necessary to make the payment request or invoice proper.
 - d) If a payment request or invoice is rejected and the Contractor submits a payment request or invoice which corrects the deficiency, the corrected payment request or invoice must be paid or rejected ten (10) business days after the date the corrected payment request or invoice is stamped as received as provided in Section 218.74(1), F.S.
 - e) If a dispute between the City and the Contractor cannot be resolved by the procedure described above, the dispute shall be resolved in accordance with the dispute resolution procedure described in Section 217.76(2), F.S.
 - f) If the City disputes only a portion of a payment request or invoice submitted by the Contractor, the City shall pay the undisputed portion in a timely manner in accordance with subsections (a) and (b) above.
- (f) Payments withheld. The City may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the City from loss as a result of: (1) defective Work not remedied; (2) failure of Contractor to make payments when due to subcontractors or suppliers for materials or labor; (3) failure to maintain adequate progress in the Work; (4) damage to another contractor; or (5) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

Payments. The City shall pay Contractor one hundred percent (100%) of each approved invoice.

- 10. COST OF LIVING INCREASES** A Consumer Price Index ("CPI") – based Cost Schedule increase may be requested in writing no later than three months before the contract renewal date.

The increase will be limited to the lesser of five percent or the result of the CPI percentage increase calculation expressed below. The CPI percentage increase shall be calculated by using the Consumer Price Index for All Urban Consumers (“CPI-U”) numbers provided by the Bureau of Labor Statistics. The CPI percentage increase shall be calculated by subtracting from the most recent May CPI-U number the CPI-U number for the previous May, then dividing the remainder by the previous May’s number, and finally, multiplying the quotient by 100. Cost Schedule increases shall be prorated based upon the number of calendar months in the City’s fiscal year that the contract has been in effect. (For example, a cost schedule increase for renewal of a contract initiated in March (six months into the City’s fiscal year), would be limited to the lesser of either one-half of the CPI percentage increase or 2.5 percent upon renewal in October.) In the event this contract includes a provision for fuel adjustment, and an upward fuel adjustment is made during the contract year, the CPI percentage increase shall be multiplied by the percentage of the Total Compensation allocated to non-fuel costs. For example, if it is determined that the cost of fuel is 20 percent of the Total Compensation, the CPI percentage increase shall be multiplied by 0.8.

11. **PAYMENT AND RELEASE.** Contractor’s acceptance of final payment shall constitute a release in full of all contractor claims against the city arising from the performance of this agreement, with the exception of any pending claims for additional compensation that have been documented and filed as required by this agreement.
12. **INDEMNIFICATION.** Contractor shall indemnify and hold harmless, release, and forever discharge the City, its public officers, employees, agents, representatives, successors, and assigns, from any and all 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 Contractor, its employees or sub-contractors, in the performance of the Work and resulting from damages to property, personal injury, or loss of life.
13. **INSURANCE AND PERMITS.** Contractor shall acquire and maintain, at its own expense, all permits and licenses required by law and shall maintain the same in full force and effect. Contractor is responsible for conformance with all State and Federal regulations and requirements. City of St. Augustine permit fees shall be waived.

Contractor shall provide all insurance required by Exhibit B, Insurance Requirements, and shall not commence Work until it has provided Certificates of Insurance to the City as per Exhibit B. Receipt of Certificates of Insurance indicating less coverage than required does not constitute a waiver of the Insurance Requirements. Contractor waives its right of recovery against the City to the extent permitted by its insurance policies. Contractor’s insurance shall be considered primary, and City insurance shall be considered excess, as may be applicable to Contractor’s obligation to provide insurance.

14. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the City’s Commission; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the City’s Commission for each succeeding Fiscal Year. Should the Work not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the City shall so notify Contractor and this Agreement shall be deemed terminated for convenience five (5) days after receipt of such notice, or within such additional time as the

City may allow. For the purpose of this Agreement, “Fiscal Year” is defined as the period beginning on October 1 and ending on September 30.

15. PROJECT MANAGEMENT AND PERSONNEL

- (a) The Project Managers listed below shall be responsible for overall coordination and management of the Work. Either party may change its Project Manager upon three (3) business days prior written notice to the other party. Written notice of change of address shall be provided within five (5) business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; (4) e-mail or, (5) fax. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one (1) business day after having been deposited with the courier. Notices via e-mail or fax are deemed delivered on the date transmitted and received.

CITY

Amy Skinner, Project Manager
 City of St. Augustine
 P.O. Box 210
 St. Augustine, Florida 32085-0210
 904-209-4320 (Office)
 904-209-4335 (Fax)
 E-mail: askinner@citystaug.com

CONTRACTOR

, Project Manager
 ,
 E-mail:

- (b) The City’s Project Manager shall have sole and complete responsibility for transmitting instructions, receiving information, and communicating City policies and decisions regarding all matters pertinent to performance of the Work, and may approve minor deviations in the Work that do not affect the Total Compensation or Completion Date or otherwise significantly modify the terms of the Agreement. For Work Order-based contracts, the City may designate a “Work Order Manager” on the Work Order, who will serve as the Project Manager for that Work Order and shall have the same responsibilities as the City’s Project Manager. The City’s Project Manager may approve minor deviations in the Work that do not affect the Total Compensation or Completion Date or otherwise significantly modify the terms of the Agreement. The City’s Project Manager and, as appropriate, other City employees, shall meet with Contractor when necessary in the City’s judgment to provide decisions regarding performance of the Work, as well as to review and comment on reports.
- (c) Contractor shall provide efficient supervision of the Work, using its best skill and attention. Contractor shall keep on the worksite during its progress a competent superintendent, satisfactory to the City. The superintendent shall not be changed except with the City’s consent, unless the superintendent proves to be unsatisfactory to Contractor and/or ceases to be in its employ. The superintendent shall represent Contractor in the absence of Contractor’s Project Manager. All directions given to him shall be as binding as if given to Contractor. If the City produces documented evidence and informs the Contractor that any person on the job is incompetent, disorderly, or is working contrary to the Agreement or the City’s instructions, that person shall thereupon be immediately dismissed from the project and shall not be given employment on any work connected with this Agreement. The City may request Contractor replace its

Project Manager if said manager fails to carry the Work forward in a competent manner, follow instructions or specifications, or for other reasonable cause.

- (d) Contractor shall maintain an adequate and competent professional staff. Contractor's employees, subcontractors, or agents shall be properly trained to meet or exceed any specified licensing, training and/or certification applicable to their profession. Upon request, Contractor shall furnish proof thereof.

16. SCHEDULING AND WORK PLANNING; PROGRESS REPORTING

- (a) **Pre-work Conference.** Within ten (10) days after execution of this Agreement, Contractor shall schedule a pre-work conference with the City's Project Manager to discuss scheduling and other matters. Contractor shall provide a work plan for the City's approval not fewer than five (5) days prior to the pre-work conference. The City shall have ten (10) days to review the work plan. Not less than five (5) days prior to the pre-work conference, Contractor shall provide the City a list of each subcontract exceeding ten percent (10%) of the Total Compensation. The list shall include: (1) name, address, contract, phone number and email address of subcontractor, (2) description of subcontract work, and (3) estimated value of work.
- (b) **Progress Reports.** Contractor shall provide to the City the project schedule and update/status reports as provided in the Scope of Work. Reports will provide detail on progress of the Work and outline any potential issues affecting completion or the overall schedule. Reports may be submitted in any form agreed to by City's Project Manager and Contractor, and may include emails, memos, and letters.
- (d) **Daily Reporting.** The City may require Contractor to provide a daily report regarding the progress of the Work. The need for a daily report shall be determined at the pre-work conference. If required, a form shall be completed for each day any Work is performed until the project is accepted by the City. Completed forms shall be submitted to the City's Project Manager or other authorized representative by 9:00 a.m. of the following day.
- (e) **Progress Meetings.** The City may elect to conduct on-site progress meetings with Contractor on a frequency to be determined by the City. In such event, Contractor shall make available its Project Manager and/or superintendent and other appropriate personnel to discuss matters pertinent to the Work.
- (f) **Failure to Meet Schedule.** If progress of the Work falls five percent (5%) or more behind schedule, except as a result of City-approved delays, Contractor shall take all necessary steps to augment the work effort to get the project back on schedule. Should the progress of the Work fall ten percent (10%) or more behind schedule, the City may advise Contractor through a "cure" notice that this Agreement is subject to termination for cause if the failure is not cured within the time frame specified in said notice.

17. FORCE MAJEURE; DELAYS

- (a) **Force Majeure.** Contractor shall not be liable for failure to carry out the terms of this Agreement to the extent such failure is due to a Force Majeure event, except for failures that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact thereof. A Force Majeure event is hereby defined as the failure to carry out any of the terms of this Agreement due to any one of the following circumstances

beyond the control of Contractor: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the State of Florida or the United States, (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (i) quarantine restrictions, (j) epidemics, (k) strikes, (l) freight embargoes, or (m) sabotage. The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. The City is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure.

- (b) **Delay.** Contractor shall not be compensated for delays caused by Contractor's inefficiency, rework made necessary by Contractor's error, failure to perform the Work as scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work. Neither shall the Contractor be compensated for delays caused by events by force majeure as described in sub-para (a) above. Within ten (10) days after the onset of a delay, Contractor shall notify the City in writing of the delay, which shall provide: (1) a detailed description the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten (10) days after the inception of the delay shall only be effective as to additional delay incurred during the ten (10) day period preceding receipt of such notice. In the case of continuing cause delay for the same cause, only one notice of delay is necessary. **Failure to provide this notice waives any claim for extension of time resulting from such delay.** If the delay is due to the failure of another City contractor to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which the City, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended as necessary to compensate for the delay. All time extensions shall be in the form of a written amendment signed by both parties.

18. **MODIFICATION OF SPECIFICATIONS; CHANGE ORDERS; EMERGENCY CHANGES IN WORK**

- (a) **Modification of Specifications.** No oral agreement or conversation with any officer, agent, or employee of the City after execution of this Agreement shall affect or modify any of its terms. No one is authorized to change any provision of the specifications without written authorization of the City. The presence or absence of a City inspector shall not relieve Contractor from any requirements of this Agreement.
- (b) **Change Orders**
- (i) The City may alter, add to, or deduct from the Work by executing a Change Order without liability to Contractor, except for the reasonable cost of any additional Work. All such Work within Contractor's capacity to perform shall be performed pursuant to the Change Order. Any associated claim for extension of time will be adjusted when the Change Order is issued. The parties shall negotiate the cost of the Change Order on an equitable basis, which may be determined in one or more of the following ways: (1) estimate and acceptance of a lump sum, (2) unit prices named in the contract or subsequently agreed upon, (3) costs and percentage or by (4) cost and a fixed fee. If the parties cannot agree upon cost, Contractor shall implement the Change Order and shall maintain and present in such form as the City Project Manager may direct the correct amount

of the net cost of labor and materials, together with vouchers. The Project Manager will certify the amount due Contractor, including reasonable allowances for overhead and profit. Pending a final determination of value, payments will be based upon the City Project Manager's certification. Final resolution of the amount due to Contractor shall be pursuant to the dispute resolution procedure.

- (ii) For any Change Order requests submitted by Contractor, the City may determine that City instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters that impose additional costs upon Contractor, do not warrant an increase in the Total Compensation or extension of the Completion Date. If Contractor disputes this determination, final resolution shall be pursuant to the dispute resolution procedure.
- (c) **Emergency Changes in Work.** In the event an emergency endangering life or property requires immediate action, the City may give Contractor an oral instruction to proceed with an emergency change in the Work, which will be confirmed in writing within five (5) days. Within fifteen (15) days after commencement of the emergency change in the Work, Contractor shall provide the City with a written estimate of any increased costs or delays as a result thereof. **Failure to so notify the City constitutes a waiver of any right to an extension of time or increase in compensation.** Within fifteen (15) days after receipt of Contractor's estimate, the parties shall negotiate a Change Order. If unable to reach agreement, disputed issues shall be resolved pursuant to the dispute resolution procedure. In no event shall Contractor decline to perform the emergency change in the Work.

19. TERMINATION AND SUSPENSION

- (a) **City Termination for Cause.** The Agreement may be terminated by the City for cause in the event of any breach hereof, including, but not limited to, Contractor's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the City regarding the Work, or (9) any other material breach of this Agreement. In such event, the City shall provide Contractor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the City's sole judgment and discretion, the City may afford Contractor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the City may take possession of the premises and of all materials thereon and finish the Work by whatever means it deems expedient. In such event, Contractor shall not receive any further payment until the Work is completed by the City. Contractor shall be liable for all costs involved in completing the Work, including additional managerial and administrative services, which shall be offset against any amount due to Contractor.
- (b) **City Termination for Convenience.** Notwithstanding any other provision hereof, the City may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days written notice to Contractor. In such event, Contractor shall be compensated for any Work performed prior to the date of termination

and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become City property. Upon receipt of notice, Contractor shall discontinue the Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor shall also make every reasonable effort to cancel, upon terms satisfactory to the City, all orders or subcontracts related to the terminated Work. Contractor may not claim any compensation not specifically provided for herein, including, but not limited to: loss of anticipated profits; idle equipment, labor, and facilities; any additional claims of subcontractors and vendors.

- (c) **City Suspension for Cause.** The City may issue a written partial or full Stop Work Notice in the event Contractor fails to comply with or is negligent in performing any provision hereof. All performance shall immediately cease as per such notice and no further billable costs shall be incurred. The City may terminate this Agreement if Contractor fails or refuses to comply with a Stop Work Notice.
- (d) **City Suspension for Convenience.** The City may direct Contractor to stop Work, in whole or in part, whenever, in the City's sole judgment and discretion, such stoppage is necessary to ensure proper completion of the Work, avoid injury to third persons, or otherwise meet the City's objectives. The City shall provide Contractor not fewer than five (5) days written notice, except in emergency circumstances. Contractor shall immediately comply with such notice. Should such stoppage increase Contractor's cost, an equitable adjustment will be made by Change Order. The notice shall be effective until rescinded in writing, unless the period of suspension is stated in the notice.
- (e) **Contractor's Right to Stop Work or Terminate Agreement**
 - (i) **Stop Work.** Contractor may stop work only under the following circumstances: (1) the Work is ordered temporarily discontinued by a court or other public authority; (2) it is necessary to stop work in order to protect the safety of Contractor or third persons; or (3) the City fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the City Project Manager. In such event, Contractor shall provide the City not fewer than seven (7) days prior written notice of its intention to stop work, except in emergency circumstances or when necessary to prevent injury to persons or property.
 - (ii) **Termination.** Contractor may terminate this Agreement under only the following circumstances: (1) the Work is ordered discontinued by a court or other public authority, through no act or fault of Contractor, for a period of not fewer than three months; (2) the City fails to pay Contractor when due any undisputed and adequately documented sum certified for payment by the City Project Manager. In such event, Contractor shall provide not fewer than twenty (20) days written notice of its intention to terminate and afford the City the opportunity to cure said deficiency within said time period.
 - (iii) **Duty to Perform.** Except as expressly provided above, in the event of any event, dispute, or other matter arising under this Agreement, Contractor shall fully perform the Work in accordance with the City's written instructions and may

claim additional compensation as a Change Order, subject to the dispute resolution procedure.

20. NO ASSIGNMENT

The Contractor may not assign this contract without the advance written approval of the city. For the purposes of this paragraph, assignment shall be interpreted to include any transfer of more than fifty (50%) percent of the ownership interests of the contractor whether or not the Contractor is a sole proprietorship, partnership, corporation, limited liability company, limited partnership or any other business, organization or entity.

21. COMPLIANCE WITH PUBLIC RECORDS ACT

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:

Telephone:	(904) 825-1007
Email:	recordsrequest@citystaug.com
Mailing Address:	City of St. Augustine Darlene Galambos, City Clerk Public Records Custodian P.O. Box 210 St. Augustine, Florida 32085-0210

Pursuant to Chapter 119, Florida Statutes, the Contractor shall comply with the provisions of the Florida Public Records Act, specifically to:

1. Keep and maintain public records required by the City to perform the Work.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and 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 City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
5. A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the

City shall immediately notify the Contractor of the request, and the Contractor must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

6. If the Contractor does not comply with the City's public records request for records, the City shall consider such noncompliance a material default of the terms of the contract and shall seek such remedies for such default as provided in the contract or at law.
7. A contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties under F.S. 119.10.

22. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this agreement shall be construed as a waiver of sovereign immunity beyond that provided in Section 768.28, F.S., nor shall anything in this Agreement be construed as increasing the limits of the sovereign immunity of the City as provided in Section 768.28, F.S.

23. ASSIGNMENT AND SUBCONTRACTS

- (a) Contractor shall not sublet, assign, or transfer any Work involving more than fifteen percent (15%) of the total cost of the Work, or assign any monies due hereunder, without the City's prior written consent. As soon as practicable after signing this Agreement, but not fewer than seven (7) business days prior to the effective date of any subcontracts, Contractor shall notify the City's Project Manager in writing of the name of any subcontractor that has not been previously disclosed in the procurement process. Within five (5) business days, after the City receipt of said notification, the City shall indicate its approval or disapproval, which shall not be unreasonably withheld. Failure to timely provide such approval or disapproval shall constitute approval. Neither City approval of a subcontractor nor any other provision of this Agreement creates a contractual relationship between any subcontractor and the City. Contractor shall be allowed a maximum 10% markup of their subcontractor's work for oversight and management.
- (b) Contractor is responsible for fulfilling all work elements in any subcontracts and payment of all monies due. Contractor is fully responsible to the City for the acts and omissions of its subcontractors and persons directly or indirectly employed by them, and shall hold the City harmless from any liability or damages resulting from any subcontract to the extent allowed by law.

- 24. AUDIT; ACCESS TO RECORDS.** Until the expiration of three (3) years after expenditure of funds hereunder, the City or its duly authorized representatives shall have access to examine any of Contractor's books and other records involving transactions related to this Agreement. Contractor shall preserve all such records for a period of not fewer than three (3) years. Contractor shall refund any payment(s) that are found to not constitute allowable costs based upon audit examination. All required records shall be maintained until an audit has been completed and all questions arising from it are resolved. Contractor will provide proper facilities for access to and inspection of all required records.

- 25. CIVIL RIGHTS.** Pursuant to Chapter 760, Fla. Stat., Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.

26. COORDINATION WITH THE CITY AND OTHER CITY CONTRACTORS

- (a) The City may let other contracts in connection with the Work. Wherever work done by the City or another City contractor is contiguous to Contractor's Work, the respective rights of the various interests shall be established by the City so as to secure completion of the Work. Contractor shall arrange its Work so as not to interfere with the City or other City contractors and join its Work to that of others in a proper manner, and in accordance with the intent of the Scope of Work. Contractor shall perform its Work in the proper sequence in relation to that of other City contractors, as may be directed by the City. Contractor shall afford other City contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly conduct and coordinate its Work with theirs. Contractor shall take into account all contingent work to be done by others and shall not plead its want of knowledge of such contingent work as a basis for delay or non-performance. Contractor shall be liable for any damage it causes to the work performed by other City contractors.
- (b) If any part of the Work depends for proper execution or results upon the work of other City contractors, Contractor shall inspect and promptly report any defects in the other contractor's work that render it unsuitable for Contractor's Work. Failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractor's work after execution of the Work.

27. CORRELATION AND INTENT OF DOCUMENTS; QUESTIONS OR ISSUES REGARDING PERFORMANCE OF THE WORK

- (a) This Agreement and all attachments are complementary. What is called for by one is as binding as if called for by all. The intent is to include all labor and materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work. Materials or work described in words, which so applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- (b) It is the City's intention to fully assist Contractor in the successful performance of the Work and to respond in a timely manner to questions or issues that arise. Contractor should discuss any questions or issues with the City's Project Manager and communicate such questions or issues in writing when required by this Agreement. The City shall respond through its Project Manager.

28. DISPUTE RESOLUTION.

- (a) During the course of work. In the event any dispute arises during the course of the Work, Contractor shall fully perform the Work in accordance with the City's written instructions and may claim additional compensation. Contractor is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation, schedule adjustment, or other dispute resolution to the City's Project Manager no later than fifteen (15) calendar days after the precipitating event. If not resolved by the Project Manager within five (5) business days, the Project Manager shall forward the request to the Office of the City Manager, which shall issue a written decision within fifteen (15) calendar days of receipt. This determination shall constitute final action of the City and shall then be subject to judicial review upon completion of the Work. Contractor shall proceed with the Work in accordance with said determination. This shall not waive Contractor's position regarding the matter in dispute.

- (b) **Invoices.** In the event the City rejects an invoice as improper, and the Contractor declines to modify the invoice, the Contractor must notify the City in writing within ten (10) calendar days of receipt of notice of rejection that the Contractor will not modify the invoice and state the reason(s) therefor. Within five (5) business days of receipt of such notice, if not informally resolved through discussion with the City Project Manager, the Project Manager shall forward the disputed invoice and the Contractor's written response to the City's Mayor. The matter shall then proceed as described in subsection (a), above.

29. DIVERSITY REPORTING. The City is committed to the opportunity for diversity in its procurement activities, and encourages its prime vendors (contractors and suppliers) to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as sub-contractors. The City will assist Contractor by sharing information on W/MBEs. Contractor shall provide with each invoice a report describing the company names for all W/MBEs, the type of minority, and the amount spent with each at all levels. The report will also denote if there were no W/MBE expenditures.

30. DUTY TO INSPECT AND REPORT DEFICIENCIES IN PLANS AND SPECIFICATIONS

- (a) For any Work that is dependent upon conditions at the worksite, Contractor's acceptance of contract award represents and warrants that Contractor has inspected and satisfied itself concerning the nature and location of the Work and general and local conditions, including, without limitation: (1) conditions affecting transportation, disposal, handling, and storage of materials; (2) availability and quality of labor; (3) availability and condition of roads; (4) climatic conditions and seasons; (5) hydrology of the terrain; (6) topography and ground surface conditions; (7) nature and quantity of surface materials to be encountered; (8) equipment and facilities needed preliminary to and during the Work; and (9) all other matters that can affect the Work and the cost thereof. Contractor's failure to acquaint itself with such conditions will not relieve it from its responsibility for properly estimating the time required or cost of performing the Work. Where the City has investigated subsurface conditions, this data may be provided to Contractor or is available upon request. Contractor must either seek clarification concerning the data or assume the responsibility for its interpretation.
- (b) If Contractor discovers hidden or subsurface conditions that differ materially from those normally expected or indicated in the technical specifications, Contractor shall immediately, and before such conditions are disturbed, notify the City in writing of: (1) subsurface or latent physical conditions differing materially from those indicated in the technical specifications, or (2) unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for herein. The City shall promptly investigate the conditions and determine whether they materially differ so as to cause an increase or decrease in Contractor's cost. Where the differing site conditions materially impact Contractor's cost, an equitable adjustment shall be made and the Agreement modified accordingly. No claim will be allowed if Contractor fails to provide the required notice.
- (c) If Contractor in the course of the Work finds any defect in the plans and specifications, including, but not limited to, any discrepancy between the drawings and the physical conditions at the worksite, or any errors or omissions in the drawings or in the layout, as given by points and instructions, it shall immediately inform the City in writing, which

shall be promptly verified by the City. Any Work done after such discovery, until authorized, will be done at Contractor's risk as to cost overruns and modifications necessary to correct deficiencies in the Work. To ensure the proper execution of its subsequent Work, Contractor shall measure Work already in place or completed and shall immediately report any discrepancy between the executed Work and the drawings or other specifications.

- 31. GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state legal proceedings shall be in a court of competent jurisdiction located in St. Johns County; (2) venue for any federal legal proceeding shall be in the federal court for the Middle District of Florida, Jacksonville Division; (3) each party shall bear its own attorney's fees, including appeals; (4) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.
- 32. INTEREST IN THE BUSINESS OF CONTRACTOR; NON-LOBBYING.** Contractor certifies that no officer, agent, or employee of the City has any material interest, as defined in Chapter 112, F.S., either directly or indirectly, in the business of Contractor to be conducted under this Agreement, and that no such person shall have any such interest at any time during the term of this Agreement. Pursuant to Section 216.347, F.S., monies received from the City pursuant to this Agreement shall not be used to lobby the Florida Legislature or any other state agency.
- 33. INDEPENDENT CONTRACTOR.** Contractor is an independent contractor. Neither Contractor nor Contractor's employees are employees or agents of the City. Contractor controls and directs the means and methods by which the Work is accomplished. Contractor is solely responsible for compliance with all labor, wage and hour and tax laws pertaining to it, its officers, agents, and employees, and shall indemnify and hold the City harmless from any failure to comply with such laws. Contractor's duties include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring employees or subcontractors necessary to perform the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes, income or employment taxes, and, if Contractor is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime as required by said Act; and (6) providing employee training, office or other facilities, equipment and materials for all functions necessary to perform the Work. In the event the City provides training, equipment, materials, or facilities to meet specific City needs or otherwise facilitate performance of the Work, this shall not affect Contractor's duties hereunder or alter Contractor's status as an independent contractor. This paragraph does not create an affirmative obligation to provide any employee benefits not required by law.
- 34. PUBLIC ENTITY CRIME.** 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 s. 287.017 F.S., for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.

35. RELEASE OF INFORMATION. Contractor shall not publish or release any information related to performance of this Agreement, or prepare, publish, or release any news or press release in any way related to this Agreement, without prior City review and written consent.

36. REMEDIES FOR NON-PERFORMANCE

(a) **City Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, the City may avail itself of any statutory and/or common law remedies not set forth herein. In the event of a breach, the City may terminate this Agreement for cause. Alternatively, the City may allow Contractor to correct the deficiency, or may take such action as is necessary to correct such deficiency through City action or that of a third party. Delay or failure by the City to enforce any right or remedy hereunder shall not impair, or be deemed a waiver of, any such right or remedy, or impair the City's rights or remedies for any subsequent breach of this Agreement.

(b) **Contractor Correction of Deficiencies.** The City shall provide Contractor with written notice of deficiency. At the City's sole judgment and discretion, the City may afford an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure. If Contractor disputes that a failure of performance has occurred, Contractor shall, nevertheless, perform the corrective action and may submit a request for a Change Order subject to the dispute resolution procedure. Unless authorized through a Change Order, the Completion Date shall not be extended in order to correct deficiencies. Contractor shall bear the cost of correcting all work of other contractors that is destroyed, damaged, or otherwise negatively impacted by its corrective action. Failure to take timely corrective action may result in termination for cause or the City pursuing alternative remedies, as provided herein.

(c) **Alternative Remedies to Correct Deficiency.** If the City determines that it is not in its best interest for Contractor to correct incomplete or damaged Work caused by Contractor's failure of performance, the City may pursue any or all of the following remedies, in whole or in part: (1) accept the Work as is and deduct the reasonable value of the deficient Work from the Total Compensation; (2) complete the Work through the utilization of City employees and deduct the cost thereof from the Total Compensation; (3) contract with a third party to complete the deficient Work and deduct the cost thereof from the Total Compensation.

(d) **City Technical Assistance.** The City may elect to provide technical assistance to Contractor in order to complete satisfactory performance of the Work. If the City is performing a function that Contractor is required to perform, the City may deduct the cost of providing such technical assistance from the Total Compensation. Prior to providing any such technical assistance, the City shall notify Contractor that it considers such assistance to be above and beyond its duties under this Agreement and that it intends to deduct the cost of providing such assistance from the Total Compensation. Contractor shall not be entitled to reject technical assistance when the City determines that such assistance is necessary to complete the Work.

37. ROYALTIES AND PATENTS. Contractor certifies that, to the best of its information and belief, the Work does not infringe on any patent rights. Unless provided otherwise herein,

Contractor shall: (1) pay all royalties, patent, and license fees necessary for the Work; (2) defend all suits or claims for infringement of any patent rights, and (3) save and hold the City harmless from loss on account thereof; provided, however, that the City shall be responsible for any such losses when the utilization of a particular process or product of a particular manufacturer is specified by the City. If Contractor obtains information that the process or article so specified is a patent infringement, it shall be responsible for such loss unless it promptly so notifies the City.

- 38. SAFETY.** For any Work that is to be performed on premises that are owned or controlled by the City (the Premises), Contractor has the sole and exclusive duty for the safety of the premises. Contractor shall provide and maintain sufficient protection for the safety of its employees and other persons who may utilize the Premises, and prevent damage to City property, materials, and equipment. Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Neither Contractor nor its subcontractors shall allow or cause to be allowed any hunting or any weapons, animals, alcohol, or drugs, on or from the Premises or adjacent property. Contractor employees shall not park their vehicles or store equipment or materials adjacent to roads where it may be a hazard to traffic. A clear distance of at least 30 feet from the edge of the pavement or right-of-way shall be kept free of any obstacles unless otherwise authorized by the City. Contractor shall ensure that only authorized personnel are allowed on the worksite and shall post notices warning both employees and the public of all safety hazards created by Contractor.

39. SURVEYS; PRESERVATION OF MONUMENTS; POINTS AND INSTRUCTIONS

- (a) **Surveys.** When necessary to performance of the Work, unless otherwise provided in the Statement of Work, the City will furnish horizontal and vertical control necessary to lay out the Work, including horizontal reference point(s) and a vertical control benchmark within 200 feet of the site. The City will set the horizontal reference point(s) and vertical control only at the beginning of the job. Contractor is responsible for interim staking during the job and all staking and layout work not otherwise furnished by the City. Contractor shall furnish all construction layout of the Work, including layout, centerline, and grade stakes for access roadways. Contractor shall furnish all personnel, equipment, and materials to make such surveys as are necessary to determine the quantity of Work performed. Field notes and computations for estimates shall be verified by the City's Project Manager as to the quantities estimated.
- (b) **Preservation of Monuments.** Contractor shall maintain and preserve all new and existing benchmarks, monuments, markers, reference points, and stakes established by others and/or the City. Should any of the aforesaid be destroyed or damaged by Contractor, the same shall be replaced by Contractor's licensed land surveyor at no cost to the City. Contractor shall be responsible for the cost of any deficiencies in the Work caused by such loss or disturbance.
- (c) **Points and Instructions.** Contractor shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. Contractor shall not proceed until it has made a timely request to the City for, and has received, such points and instructions as may be necessary as the Work progresses. The Work shall be done in strict conformity with such points and instructions.

- 40. USE OF COMPLETED PORTIONS OF THE WORK.** The City shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not

have expired. Such taking of possession and use will not be deemed an acceptance of any Work not completed. If such possession and use increases the cost of or delays the Work, Contractor shall be entitled to a Change Order for extra compensation, or extension of time, as necessary, to offset the effect of such prior possession and use.

41. WARRANTY

- (a) Contractor warrants that the Work, workmanship and material furnished by Contractor shall be new and of specified quality, shall conform to the requirements of this Agreement, shall be free from defects, and shall be free from any security interest, lien, or other encumbrances. This warranty shall remain in effect for a period of twelve (12) months after completion of the Work, unless otherwise specified herein. Any defective Work, workmanship, or material corrected during the warranty period shall be similarly warranted for twelve (12) months following its correction or for such other period as specified herein. The express warranty set forth herein shall not be exclusive and shall not act as a limitation upon any statutory or other warranty of any kind, express or implied, including any implied warranty of merchantability or fitness for a particular purpose.
- (b) In the event of breach of this warranty, Contractor shall take the necessary actions to correct the breach in the most expedient manner as dictated by then-existing circumstances. All costs incidental to the repair, replacement, redesign, and testing incurred as a result thereof, including the removal, replacement, and reinstallation of equipment in place when the Work was started, shall be Contractor's responsibility. Upon written notification of a breach, Contractor shall promptly send the necessary personnel to the project site to assume responsibility for corrective action. Time is of the essence. Contractor shall be afforded necessary and reasonable access to perform warranty work. If Contractor fails to promptly correct the breach, the City may take corrective action without waiving any other rights or remedies it may have, and Contractor shall reimburse the City for all expenses reasonably incurred in performing such corrective action.

42. WORK SCHEDULE

For construction or other services upon City property, no Work shall be accomplished on official holidays or weekends unless approved in advance by the City Project Manager. Unless otherwise approved by the City Project Manager, Contractor's work hours on City property shall not commence before 7:00 a.m. and shall conclude on or before 6:00 p.m. All requests to change the schedule shall be coordinated with the City a minimum of 24 hours in advance of the change and confirmed in writing.

43. CONTRACT INTERPRETATION

In the event of a conflict between the terms of this Agreement and the General Conditions, the term of the General Conditions shall prevail.

44. ENTIRE AGREEMENT

The terms of this Agreement supersede any and all prior or contemporaneous understandings, agreements and representations and constitute the final and complete understandings of the parties.

**ADDITIONAL PROVISIONS
(In Alphabetical Order)**

DEFINITIONS

ADDENDA: Written or graphic instruments issued prior to the opening of Bids which make additions, deletions, or revisions to the solicitation or contract documents.

AGREEMENT: The written contract between the City and Contractor covering the Work, which includes all documents attached to this Agreement or incorporated herein by reference. The words “contract” and “Agreement” are synonymous in these documents.

AMENDMENT: Any written change made to the terms and conditions of the Agreement.

PROPOSAL: The written offer of Respondent (when submitted on the reproduced approved forms) to perform the Work and furnish the necessary materials in accordance with the provisions of this Agreement.

PROPOSAL BOND: The security furnished with a Proposal to guarantee that Respondent will enter into a contract and execute, deliver, and perform all other obligations described in the Invitation for Proposals if Contractor receives a Notice of Intent to Award the contract from the City.

CHANGE ORDER: A written agreement of the parties after the Commencement Date to amend this Agreement so as to modify the Scope of Work or the Total Compensation or provide for an extension of time.

COMMENCEMENT DATE: The date upon which the Work is authorized to proceed.

COMPLETION DATE: The date by which the Work is required to be completed.

CONTRACTOR: Contractor, its officers, employees, agents, successors, and assigns.

CONTRACTOR’S PROJECT MANAGER: The individual designated by the Contractor to be responsible for overall coordination, oversight, and management of the Work for Contractor.

CONTRACTOR’S SUPERINTENDENT: Contractor’s representative who is present during the progress of the Work and authorized to receive and fulfill instructions from the Contractor’s Project Manager or the City.

CPM or CRITICAL PATH METHOD: The use of calculated task duration with no regard for probabilities. A path has no float and is the longest path through the project. A critical path encompasses those project activities that are crucial and cannot be shifted, having calculated task duration. They are the important activities driving the project. Float belongs to the City.

DAY: Each day shown on the calendar.

DELIVERABLES: All Work that is to be performed pursuant to the Scope of Work, in whole or in part, including, but not limited to, all equipment or materials that are incorporated within the Work.

CITY: The City of St. Augustine, its Commission, officers, agents, and employees.

CITY'S PROJECT MANAGER: The City employee designated by the City to be responsible for overall coordination, oversight, and management of the Work for the City.

CITY'S SUPPLEMENTAL INSTRUCTION: Instructions issued by the City's Project Manager to make minor changes in the Work not affecting the Total Compensation or the Completion Date, and consistent with the purpose of the Work.

FINAL RELEASE OF LIENS: The instrument that is to be signed by Contractor and submitted to the City upon completion of the Work showing that all bills from subcontractors have been paid.

INSPECTOR: The City's Project Manager or an authorized representative of the City who is assigned to inspect the Work.

PERFORMANCE AND PAYMENT BOND: The security furnished by Contractor and surety in either the form provided or in a form approved by the City as a guarantee that Contractor will perform all of its contractual obligations in accordance with the terms of the Agreement and pay in full all bills and accounts for material, labor, services, and supplies used directly or indirectly in the performing the Work.

PERSON: Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or others, and any combination of individuals.

PRINCIPAL: When used in a Bid, Performance and Payment Bond, the word "principal" means the same as the word "Contractor."

REQUEST FOR PROPOSALS: An advertised solicitation for sealed competitive Proposals, with the title, date, and hour of the public opening designated. It includes a detailed description of the goods and/or services sought, the date for submittal of Proposals, and all contractual terms and conditions.

RESPONDENT: Any person who submits a Bid in response to a Request for Bids or a proposal in response to a Request for Proposals.

SCOPE OF WORK: The City's written directions, requirements and technical specifications for completing the Work. Standards for specifying materials or testing that are incorporated therein by reference shall have the same force and effect as if fully set forth therein.

SUBCONTRACTORS: Those persons having a direct contract with Contractor relating to performance of the Work, including one who furnishes material worked into a special design in accordance with the plans or specifications of the Work, but not including one who merely furnishes material.

SURETY: The entity bound by a bond to be liable for Contractor's satisfactory performance of the Work and payment of all debts pertaining thereto.

TOTAL BID: The total cost to be paid to Contractor for completion of the Work.

TOTAL COMPENSATION: The total funds to be expended pursuant to this Agreement upon satisfactory completion of the Work.

WORK: All labor, materials, equipment, transportation, supporting documentation, and other products, services, or facilities necessary for complete performance of the Agreement.

****To be used for corporations**

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original on the day and year first above written.

OWNER:

CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation

ATTEST:

Darlene Galambos, City Clerk
(SEAL)

By: _____
Printed Name: _____
Title: _____
Date: _____

ATTEST:

Secretary
(SEAL)

CONTRACTOR:

By: _____
Printed Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Isabelle C. Lopez, City Attorney

- Exhibit A: Scope of Work
- Exhibit B: Insurance Requirements

****To be used for LLC and Individual**

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original on the day and year first above written.

OWNER: CITY OF ST. AUGUSTINE,
FLORIDA a municipal corporation

ATTEST:

Name: _____
City Clerk

By: _____

Printed Name: John P. Regan

(SEAL)

Title: City Manager

Date: _____

CONTRACTOR:

Signed, sealed and delivered
in the presence of:

Witness

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Date: _____

Witness

Printed Name: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Isabelle C. Lopez, City Attorney

Exhibit A: Scope of Work
Exhibit B: Insurance Requirements

EXHIBIT A– SCOPE OF WORK

The City of St. Augustine includes two (2) established CRAs. This Scope of Services includes a request to administer both CRAs.

LINCOLNVILLE CRA CONSULTANT SERVICES

General Statement

The City of St. Augustine is seeking a qualified consultant to administer the Lincolnville Redevelopment Plan with the Lincolnville Community Redevelopment Area (LCRA) Steering Committee, the St. Augustine Community Redevelopment Agency, the general public, and as necessary city staff, and other citizen boards. The consultant shall use existing documents, and materials related to the LCRA as a basis for implementation and administration of the plan, such as the Finding of Necessity, the Lincolnville Redevelopment Plan, as amended, and appendices, and current budgets. When necessary, consideration shall be given to consistency with the St. Augustine Comprehensive Plan and sections of the St. Augustine Code of Ordinances relevant to redevelopment activities in Lincolnville, as well as other city or neighborhood initiatives, studies, and plans. The consultant would be responsible for the required administrative functions of the LCRA, such as, review and administration of application requests for grant monies associated with the Updated Fix-it-Up and Rehabilitation programs, running the Steering Committee meetings, Agency meetings, and managing projects associated with implementing the plan as outlined in the budget.

The selected consultant shall have experience in the administration and implementation of community redevelopment plans and demonstrate familiarity with the community redevelopment program outlined under Florida Statutes Chapter 163, Part III. The consultant shall be expected to use accepted professional standards and practices to prepare, run and complete Agendas, Minutes, packet preparation for Committee and Agency meetings, Annual reports as necessary, and budget preparation and administration for the Lincolnville CRA, pursuant to Florida Statutes Chapter 163, Part III requirements.

Description of Services

The consultant will be expected to independently manage “daily” activity related to plan implementation, administer meetings, and active projects.

The Scope of Services expectation is that the consultant is solely responsible for all expenses, scheduling, copying, administration, and responsibilities for the management of the LCRA independent from the City. This includes the cost of renting the Galimore Center, and any actual administrative costs. The consultant will deal directly with the public, Steering Committee, and the Agency, this may require coordination with City staff, which may include the Planning and Building Department, City Manager’s office, and the Director of Budget and Management.

Required services include all requirements of CRA management per Chapter 163, Part III and the LCRA Plan which can include:

- Agendas, Packets, Minutes (Meetings currently bimonthly)
- Website administration – citystaugcra.com
- Audit reports and required filing
- Budget reports

- Meeting preparation, presentations and attendance
- Required newsletter or similar distribution of information
- Administer active projects, Updated Fix-it-up, Rehabilitation Program, Landscape Master Plan, South Street Multi-purpose path, and others as prioritized by the LCRA
- Representation at any required FRA association meetings

HISTORIC AREA TRANSPORTATION AND PARKING CRA CONSULTANT SERVICES

General Statement

The City of St. Augustine is seeking a qualified consultant to administer the Historic Area Transportation and Parking Redevelopment Plan with the St. Augustine Community Redevelopment Agency (City Commission), the general public, and as necessary city staff, and other citizen boards. The consultant shall use existing documents, and materials related to the CRA as a basis for implementation and administration of the plan, and current budgets. The consultant would be responsible for the required administrative functions of the CRA, such as, any required Agency meetings, and budget preparation.

Description of Services

The administrative requirements for the Historic Area Transportation and Parking CRA are not as rigorous as the LCRA, nonetheless the expectation is that all statute requirements for a CRA are met, and that any associated program or budget requirements are met, including the annual report, and other required reporting under Florida Statutes Chapter 163, Part III, and city staff.

General Scope Summary

The Consultant will be responsible developing project work plans, scheduling, budgeting, reporting, and documenting activities for both CRAs. This includes providing public information, administering activities, preparing presentations, and maintaining required records for the CRAs.

Qualifications for the hired consultant:

- Be recognized professionals in neighborhood planning, revitalization, community development, redevelopment, design, architecture/landscape architecture, historic preservation, or a related field
- Demonstrate a thorough knowledge of the Community Redevelopment Act, Florida Statutes relevant to CRA governance.
- Demonstrate knowledge of Florida land use planning, Geographic Information Systems (GIS), public participation processes, and demographic/economic data mining and analyses, and historic preservation

EXHIBIT B - INSURANCE REQUIREMENTS

At a minimum, Contractor shall acquire and maintain until completion of the Work the insurance coverage listed below, which constitutes primary coverage. Contractor shall not commence the Work until the City receives and approves Certificates of Insurance documenting required coverage. Contractor's General Liability policy shall include Endorsement CG 20101185, or equivalent, naming the City of St. Augustine ("City") as Additional Insured. All required policies shall include: (1) endorsement that waives any right of subrogation against the City for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act; (2) endorsement to give the City no less than thirty (30) days notice in the event of cancellation or material change. Certificates of Insurance must be accompanied by copies of the requested endorsements.

Any deductibles or self-insured retentions above \$100,000 must be declared to and approved by the City. Approval will not be unreasonably withheld. Contractor is responsible for any deductible or self-insured retention. Insurance must be placed with insurers having an A.M. Best rating of A-V or greater. City receipt of insurance certificates providing less than the required coverage does not waive these insurance requirements.

- (a) **Workers' Compensation Insurance.** Workers' compensation and employer's liability coverage, including maritime workers compensation, if applicable, in not less than the minimum limits required by Florida law. If Contractor claims an exemption from workers' compensation coverage, Contractor must provide a copy of the Certificate of Exemption from the Florida Division of Workers' Compensation for all officers or members of an LLC claiming exemption who will be participating in the Work. In addition, Contractor must provide a completed City "Affidavit (Non-Construction)" for non-construction contracts. Contractor is solely responsible for compliance with any Federal workers' compensation laws such as, but not limited to, Jones Act and USL&H Act, including any benefits available to any workers performing work on this project.
- (b) **General Liability.** Commercial General Liability Insurance on an "Occurrence Basis," with limits of liability not less than \$1,000,000/\$2,000,000, for personal injury, bodily injury, and property damage. Coverage shall include: (1) contractual liability, (2) products and completed operations, (3) independent contractors, and (4) property in the care, control, or custody of the Contractor. Extensions shall be added or exclusions deleted to provide the necessary coverage.
- (c) **Automobile Liability.** Minimum limits of \$100,000/\$300,000/\$50,000

**If applicable, the following additional coverage may be required, depending upon the nature of the Work.

- (**) **"Builder's Risk" Property Insurance.** Coverage amount shall be sufficient to insure the completed value of new project construction.
- (**) **Maritime Workers' Compensation** insurance may be required if the work involves maritime activities, such as underwater diving, or work adjacent to navigable waters.
- (**) **Watercraft Liability.** \$300,000 for bodily injury and property damage.
- (**) **Pollution/Environmental Impairment Liability Coverage.** Not less than \$500,000 per occurrence and/or aggregate combined single limit, personal injury, bodily injury, and property damage.
- (**) **Professional Liability.** (Per claim) \$500,000 single limits.