

**CONTINUING CONTRACT FOR
PROFESSIONAL MUNICIPAL ENGINEERING SERVICES**

THIS AGREEMENT is made and entered into October 4, 2021, by and between the **CITY OF LAKELAND, FLORIDA**, a Florida municipal corporation, hereinafter referred to as the “City,” located at 228 S. Massachusetts Avenue, Lakeland, Florida 33801 on behalf of its municipal airport, Lakeland Linder International Airport, with an address at 3900 Don Emerson Drive Ste. 210, Lakeland, FL, 33811, and HDR Engineering, Inc., a Nebraska Corporation, hereinafter referred to as “Engineer”, with offices located at 4830 W. Kennedy Blvd., Suite 400 Tampa, FL 33609.

W I T N E S S E T H:

WHEREAS, the City wishes to obtain Professional Municipal Engineering Services for Lakeland Linder International Airport (Airport) on a continuing basis; and

WHEREAS, the City solicited requests for information and qualifications pursuant to Request For Qualifications (RFQ) No. 1189 from qualified firms under the guidelines set forth in the Consultants Competitive Negotiations Act (CCNA) to assist the City with Municipal Engineering Services for the Airport; and

WHEREAS, the Engineer set forth a proposal and is qualified and willing to provide such services.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1.0 TERM

- 1.1** This Agreement is to become effective on October 1, 2021 (“Effective Date”) and shall remain in effect until September 30, 2024, unless sooner terminated as provided herein. Additionally, the parties agree that the term may be extended upon mutual written agreement for periods of one (1) year, but such option to extend may only be utilized two (2) times. In no event shall this Agreement extend beyond September 30, 2026.
- 1.2** The term of any Task Authorization, as described in Section 3.0 hereof, shall be as set forth in such Task Authorization. Any Task Authorization in effect at the termination of this Agreement shall remain in effect until completion of said Task Authorization, and all of the terms and conditions of this Agreement shall survive until completion of all Task Authorizations.

2.0 DEFINITIONS

- 2.1** Wherever used in this Agreement or in the other corresponding Contract Documents, the following terms shall have the meanings indicated which shall be applicable of both the singular and plural thereof:

2.1.1 Addendum – Changes to the original Agreement.

- 2.1.2** Approved – Approved, acceptable, considered necessary, satisfactory, or words of similar meaning shall mean approved, acceptable, considered necessary or satisfactory to or by the City.
- 2.1.3** Change Order – A written order to Engineer signed by the City authorizing an addition, deletion, or revision in the Work, or an adjustment in the Task Authorization Price or Schedule issued after execution of the Task Authorization.
- 2.1.4** Contract or Agreement – Contract or Agreement shall mean the definitive final written agreement between City and Engineer.
- 2.1.5** Contract Documents – The Contract Documents shall mean, collectively, and in hierarchical order, the Contract including all attachments thereto, City approved addendum or change order, the Task Authorization(s), the Public Construction Bond as required, the City's Purchase Order and Engineer's Task Proposal which are intended to be complementary, and what is required by any one of them shall be as binding as if required by all.
- 2.1.6** Contract Time – The total number of calendar days and any completion dates for phases or segments of the Work shown on a Task Authorization Final Schedule to be completed by the parties.
- 2.1.7** Contract Price – The total monies, payable to Engineer under terms of the Task Authorization.
- 2.1.8** Engineer – The person, persons, partnership, company, or corporation undertaking the performance of the Work required by the Contract.
- 2.1.9** Day – A calendar day or any fraction thereof.
- 2.1.10** Equal – The words "or equal" used in connection with materials, products, or equipment designated by manufacturer's names, trade names or catalog numbers are intended to establish a standard. Other materials, products, or equipment meeting or exceeding the established standard may be used provided that their equivalency has been demonstrated to the satisfaction of the City and that written approval of their use has been obtained.
- 2.1.11** Field Order – A written order signed by the City and Engineer as an agreement of clarification of the Contract and not any adjustment in the Contract Price or Time.

- 2.1.12** "Hazardous Materials" shall mean those materials included within the definitions of "hazardous substances", "hazardous materials", toxic substances", "contaminants" or "hazardous wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC Sections 9601, et seq.); the Hazardous Materials Transportation Act, as amended (49 USC Sections 1801, et seq.); the Resource Conservation and Recovery Act, as amended (42 USC Sections 9601, et seq.); the Toxic Substance Control Act as amended (15 USC Section 2601 et seq.); the Environmental Protection Act, R.S.O. 1990, C.E. 19; the Environmental Protection Act, S.C. 1991 c. 15.3, as amended; and in any of the regulations adopted, published, and promulgated pursuant to said laws, or in any other Laws and Regulations.
- 2.1.13** Installation – Installation includes in addition to actual installation, all unloading, warehouse handling, rigging and hoisting, and furnishing of all tools, equipment and materials required to handle and install the Work, except as otherwise specified in the Task Authorization.
- 2.1.14** Jobsite – The site upon which the Work is to be performed. The terms "Jobsite" and "Worksite" may be used interchangeably.
- 2.1.15** Manufacturer – An individual, firm or corporation who is furnishing material or equipment to either the City or Engineer or both.
- 2.1.16** By Others – Refers to labor or materials to be furnished by the City, by a contractor or subcontractor other than Engineer.
- 2.1.17** City – The City of Lakeland or its authorized representatives, successors or assigns.
- 2.1.18** Project – The entire construction and Work to be performed as provided in the Task Authorization.
- 2.1.19** Provisional Acceptance – Provisional Acceptance shall occur upon successful completion of all of the Work except for; (i) final completion of the punch list, (ii) delivery of as-builts and, (iii) completion of the applicable Performance Test(s).
- 2.1.20** Purchase Order (PO) – A Work authorization document issued by the City's Purchasing Department with the words "Purchase Order" clearly marked on the top right corner, a PO number used for reference shown on the front, a Task Authorization number reference, a description of the Work or a listing of the applicable Contract Documents, an authorized City signature and stating the amount of lawfully authorized funds.
- 2.1.21** Schedule – The agreed upon sequence of activities with start and finish dates of a Task Authorization including logical relationships of activities, deliverables, and milestones agreed to at issuance of Purchase Order or as modified thereafter as provided in the Contract.

2.1.22 Shop Drawings – All Manufacturer's and Engineer's drawings, diagrams, illustrations, brochures, schedules, and other data which illustrate the details of the equipment, material and Work to be furnished for the Project.

2.1.23 Work or Services – Work or Services shall mean all of the activities as generally described in the scope sections of each Task Authorization.

3.0 TASK AUTHORIZATIONS

3.1 The City shall make requests of the Engineer to perform Professional Municipal Engineering Services, as defined in Section 4.0, on a task basis. The City will communicate with the Engineer, in writing, a general description of the task to be performed. At the City's request, the Engineer will generate a detailed "Scope of Work" document; prepare a schedule; add a not-to-exceed-price, firm lump sum, or estimated price, as deemed appropriate by the City to accomplish the task; and send the thus developed "Task Proposal" to the City in an electronic format acceptable by the City. If a site visit by the Engineer is needed to generate the scope document, the Engineer shall request written approval from the property owner(s) and the City prior to visiting the site. The City will review the proposal, and if the description is mutually acceptable, the parties will enter into a written "Task Authorization" with the agreed/negotiated "task proposal" incorporated with the City's designated "Task Authorization" form. The final fully executed "Task Authorization" shall supersede any previous "task proposal." Upon receipt of the fully executed Task Authorization and a Notice to Proceed from the City, the Engineer shall perform the services set forth.

3.2 The City's internal approval policy and procedures for "Task Authorization" limits and approvals are as follows: amounts \$25,000 up to \$50,000 require approval of the City Manager; amounts greater than \$50,000 require approval of the City Commission. Coordination of "Task Authorization" approvals shall be handled solely by the City.

3.3 Unless authorized in writing by the City, the Engineer shall not include with the "task proposal" any conflicting terms and conditions to this Agreement, rate schedules, signature requirements, or acceptance forms for City approval to proceed.

3.4 Task Authorizations funded thorough, in part or wholly, a grant provided by the Federal Aviation Administration (FAA) or Florida Department of Transportation (FDOT) must also receive approval through the associated funding agency prior to execution by the City.

4.0 DESCRIPTION OF SERVICES

4.1 The Scope of Services provided by the Project Manager shall include all phases of engineering as specifically defined in attached **Exhibit "A"**.

5.0 CHANGES IN THE SCOPE OF WORK

5.1 The City may make changes in the services to be provided hereunder at any time by giving written notice to the Engineer. If such changes increase (additional services) or decrease or eliminate any amount of work, the City and the Engineer will negotiate any change in total cost or schedule modifications. If the City approves any change, the Task Authorization

will be modified to reflect the changes. The Engineer shall be compensated for said services in accordance with the terms of Section 7.0 herein. All change orders shall be authorized in writing by the City's designated representative.

5.2 All of the City's Task Authorizations and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.

5.3 Any plan of action, method of work, or construction procedure suggested orally or in writing to the Engineer by any City employee or agent which is not set out in the Change Orders or other written directives issued in accordance with the Contract Documents, if adopted or followed by the Engineer in whole or in part, shall be performed at the sole risk and responsibility of the Engineer.

6.0 SCHEDULE

6.1 Time is of the essence with regard to this Agreement and any Task Authorization hereunder however its understood that the Engineer must perform its services using sound professional practices. The Engineer shall perform its services in conformance with the mutually agreed upon schedule set forth in the negotiated Task Authorization. The Engineer shall complete all of said services in a timely manner and will keep the City apprised of the status of work on at least a monthly basis. Should the Engineer fall behind the agreed-upon schedule, it shall employ such resources so as to comply with the agreed upon schedule.

6.2 No extension for completion of services shall be granted to the Engineer without the City's prior written consent or as specifically set forth in this Agreement.

6.3 In the event of a delay attributable to the acts or inaction of the Engineer, Engineer shall reimburse the City for its direct cost, such as labor and materials, to the extent caused by the Engineer's delay.

7.0 METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF ENGINEER

7.1 The "Engineer's Professional Engineering Services Fee Schedule (the 'Fee Schedule')" as set forth in Appendix "A" shall be used as the basis for payment for services under this Agreement. The hourly billing rates and unit prices for materials, testing, etc., set forth in the Fee Schedule shall include wages, salaries, taxes, insurance, overhead and profit and shall be firm through the initial term of the Agreement ending September 30, 2024. Thereafter, hourly billing rates and unit prices are subject to an equitable annual adjustment that is to be negotiated between the parties and in place prior to the beginning of any renewal term. Any adjustments to the Fee Schedule must be mutually agreed to, in writing, by the City and the Engineer. Failure to reach an agreement on fees and costs shall result in termination of this Agreement.

7.1.1 The "City of Lakeland Consultant Expense Reimbursement Policy", as may from time to time be amended, set forth in Appendix "B", shall be used as the basis for payment for actual costs of all Reimbursable Expenses incurred in connection with the services rendered by the Engineer or Engineer's independent professional associates or Engineers, directly or indirectly in connection with such services.

Reimbursable Expenses shall include, without limitation: telephone, printing, subsistence, automobile expenses, obtaining bids or proposals from Contractor(s), providing and maintaining field office facilities, including furnishings and utilities, relocation costs and/or subsistence and transportation of resident project representative and their assistants, which are incurred in connection with the services rendered by the Engineer. All Reimbursable Expenses shall be passed through at a cost factor of 1.0.

7.1.2 Payment for Tests. The Engineer shall furnish the City with its bid prices for performing specific tests as called out for in the Scope of Work which may be required. Payment will be made based on the actual number of tests performed using the unit prices listed in the Fee Schedule. The unit prices shall include everything the Engineer may use, require, or do for the satisfactory performance of the work.

7.1.3 Taxes. For any present or future sales, use, excise, or other similar tax applicable to the furnishing of any service hereunder levied by State and Federal government, the Engineer shall pass through at a cost factor of 1.0.

7.2 The City agrees to compensate the Engineer for the Professional Services properly performed on each Task Authorization in accordance with one of the following methods, unless otherwise provided herein or in the specified Task Authorization:

7.2.1 A not to exceed cost based upon the hourly rates and costs set forth in the Fee Schedule. Unless specified otherwise in the Task Authorization, not to exceed prices shall include, but may not be limited to, reimbursable expenses. At monthly intervals, unless specified otherwise in the Task Authorization, the Engineer shall submit invoices for services, additional services rendered and for reimbursable expenses incurred. The invoices will be based upon the Engineer's actual expenses incurred and actual work performed per individual and evidenced by certified payroll within the billing period.; or

7.2.2 Lump sum cost shall be based upon the Fee Schedule and may be further defined in the specified Task Authorization. If a lump sum cost method is used, Engineer's invoice will be based on the percentage of work completed in the previous month. Billing invoices for partial payments shall include a progress statement and a revised schedule.

7.3 The City shall pay the Engineer for additional services as follows:

7.3.1 Professional Associates, Engineers and/or Subcontractors: For services and expenses of independent professional associates, consultants and/or subcontractors employed by the Engineer, the amount invoiced to the Engineer times a factor of 1.0 for invoices to the City.

7.3.2 Expert Witness: On an hourly basis for any litigation, arbitration or other legal or administrative proceeding and for time spent in preparation for such litigation as set forth in Section 7.1.

- 7.4 At monthly intervals, unless specified otherwise in the Task Authorization, the Engineer shall submit invoices for services, additional services rendered and for reimbursable expenses incurred. The invoices will be based upon the Engineer's actual manpower expended and actual expenses incurred within the billing period.

7.4.1 Original invoices shall be sent to City of Lakeland finance at:

City Hall Finance
Accounts Payable, Mail Code: CH-AP
228 S. Massachusetts Avenue
Lakeland, FL 33801

or

e-mail: cityhallap@lakelandgov.net

With a copy of the invoice sent to the City's Project Manager

Payments due Engineer under this Agreement shall be made by check or direct deposit and mailed to the address or Post Office Box identified in the remittance instructions on the Engineer's most recent invoice within thirty (30) days upon City's receipt of invoice. If payment is not received within that period, a penalty for late payment of one percent (1%) in accordance with Florida Statute §218.74 et. seq., the Local Government Prompt Payment Act.

- 7.5 At the end of each billing period, the Engineer shall provide the City with a report showing the actual progress of the consulting work completed compared to the Project schedule for completion of the work to the end of such period.
- 7.6 A separate invoice must be submitted for each individual Task Authorization. With the exception of invoices for lump sum costs, invoices must show a breakdown of the number of hours worked by each person charging time to the Task Authorization, hourly salary cost and any reimbursable expenses.
- 7.7 Engineer shall provide City's designated Project Manager with monthly time sheets or labor-cost statements for services rendered during the preceding month, if applicable. Each time sheet shall state the name and classification of all personnel who performed services during said month under the "Task Authorization" and the number of hours worked by each.
- 7.8 Records of the Engineer's salary costs and Reimbursable Expenses pertinent to Engineer's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. These records will be made available to the City for audit upon request by the City. Copies will be made available to the City on request prior to final payment for the Engineer's services.
- 7.9 City shall notify the Engineer within seven (7) days of receipt of an invoice if the invoice requires clarification. In addition, the Engineer shall provide written documentation, including invoices, for any third-party services or subcontractor used for services pursuant

to this Agreement. The Engineer agrees that the City reserves the right to withhold any amounts due deemed to be in question or billed in advance of actual work progress.

8.0 DELIVERABLES

- 8.1** The “Deliverables” are defined as reports, findings, specifications or anything else that is the end product of work performed by the Engineer for the City. The Engineer shall, within such time constraints as may be set forth in the Scope of Work/Task Authorization, submit to the City the deliverables identified in the Scope of Work/Task Authorization. The Engineer shall upon completion of all work, submit to the City all information developed in the course of the consulting services. The Engineer shall, upon request by the City and upon completion or termination of this Agreement, deliver to the City all material furnished to the Engineer, provided the City identifies those materials in writing. Any reuse or modification of such Deliverables for purposes other than those intended by the Engineer in its scope of services shall be at the City’s sole risk and without liability to the Engineer.

9.0 RIGHT TO INSPECTION AND OWNERSHIP OF RECORDS

- 9.1** City, FAA, Department of Transportation (DOT) and FDOT or its affiliates shall at all times have the right to review or observe the services performed by Engineer. The Engineer shall maintain books, records and documents pursuant to this Agreement in accordance with generally accepted accounting procedures and practices. The Engineer agrees to provide the Sponsor, the FAA, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the Engineer which are directly applicable to the Agreement for the purpose of making audit, examination, excerpts and transcriptions. The Engineer agrees to maintain all books, records and reports required pursuant to this Agreement for a period of not less than three (3) years after final payment is made and all pending matters are closed, whichever is later.
- 9.2** City or its affiliates shall at all times have the right to review or observe the services performed by Engineer.
- 9.3** City, or its designated representative, shall have the right to review and inspect all of the accounting records, for salaries and expenses, kept by the Engineer for the work performed for the City. Such inspection shall be at the City’s expense, and shall occur during normal business hours;
- 9.4** No inspection, review, or observation shall relieve Engineer of its responsibility under this Agreement.

10.0 PROGRESS MEETING

- 10.1** City’s designated Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required, during the term of any Task Authorization entered into under this Agreement. Engineer’s Project Manager and all other appropriate personnel shall attend such meetings as designated by City’s Project Manager, and Engineer shall be compensated at the billing rates set forth in Section 7.0.

11.0 REASONABLE ACCESS

- 11.1** During the term of this Agreement, City shall grant Engineer reasonable access to the City's premises for purposes of fulfilling its obligations under this Agreement.

12.0 INSURANCE

- 12.1** Engineer shall maintain in force during the term of this Agreement, at its own expense, insurance as set forth in **Attachment "1"**, which is hereby made a part of this Agreement.
- 12.2** The insurance requirements set forth in **Attachment "1"** are solely for the purpose of services performed pursuant to this Agreement. In the event there is a change in scope of work, the City reserves the right to amend the insurance requirements accordingly. If applicable, amendments to insurance requirements will be reflected in an individual Task Authorization.

13.0 INDEMNIFICATION

- 13.1** Engineer shall indemnify and hold harmless the City, its agents, and employees in accordance the terms and conditions set forth in enter into the indemnification set forth in **Attachment "1"**. attached hereto and incorporated herein by reference.
- 13.2** Notwithstanding any other provision of this Agreement, the provision of this Section shall survive the termination or expiration of this Agreement.
- 13.3** PURSUANT TO CHAPTER 558.0035 OF THE FLORIDA STATUTES, AS MAY BE AMENDED, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE PROVIDED THAT THE PROVISIONS OF CHAPTER 558.035 ARE SATISFIED.

14.0 SAFETY

- 14.1** Airport safety standards, including but not limited to, Airport Rules and Regulations, Construction Safety and Phasing Plans (CSPPs), as well as Airport security procedures shall be complied with at all times by the Engineer.
- 14.2** Engineer agrees to comply with City's safety standards while on the property of City. A listing of City's standard safety standards is included in **Exhibit "C"**, which is hereby made a part of this Agreement.
- 14.3** Engineer shall be responsible and assume all liability for the safety and supervision of its employees while performing services hereunder.

15.0 COMPLIANCE WITH LAWS AND REGULATIONS

- 15.1** Engineer shall comply with all requirements of federal, state, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of this Agreement including, but not limited to, all applicable Federal Aviation Administration (FAA) and

Florida Department of Transportation (FDOT) requirements as may be amended from time to time and as further specified in Exhibit "B" incorporated herein and attached hereto.

16.0 REPRESENTATIONS

16.1 Engineer represents that the services provided hereunder shall conform to all requirements of this Agreement; shall be consistent with recognized and sound engineering practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the services rendered provided at the same time and in the same locale.

16.2 Should any Work done during the correction period require correction because of faulty workmanship or materials; or should the materials as supplied or as installed by Engineer require corrective work the City shall notify the Engineer and proceed as follows:

16.2.1 If the City's time schedule permits, the Engineer will be allowed to perform the corrective work and shall be responsible for all such costs;

16.2.2 If the City's time schedule does not permit or if the Engineer refuses or neglects to take immediate action, the City shall have the right to perform the corrective work, exercising due care to ensure the lowest possible expense, and the Engineer shall reimburse the City for the cost of the corrective work.

16.3 Engineer represents that the personnel furnishing such services shall be fully qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best personal knowledge and judgment.

16.4 Subject to the provisions of this Section, should Engineer breach the representations set forth herein, City shall have such remedies as may be provided at law or equity. Without limiting the generality of the foregoing, if prior to the expiration of one (1) year from the date Engineer completes its services under any Task Authorization entered into hereunder, Engineer's services are noncomplying, defective, or otherwise improperly performed and City notifies Engineer in writing that a defect, error, omission or noncompliance has been discovered in Engineer's services, Engineer shall, correctly re-perform such noncomplying, defective, or otherwise improperly performed services at no additional cost to City;.

17.0 REPRESENTATION AGAINST INFRINGEMENT

17.1 Engineer represents that all services provided under this Agreement shall be free from claims of patent, copyright, and trademark infringement. Notwithstanding any other provision of this Agreement, Engineer shall indemnify, hold harmless, and defend City, its officers, directors, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other item delivered under this Agreement.

18.0 DOCUMENTS/OWNERSHIP OF DOCUMENTS

- 18.1** Upon City's or its designated Project Leader's request, at any time during the term of this Agreement or upon completion or termination of this Agreement, Engineer shall provide City or its designated Project Leader with a copy of all documents prepared by Engineer under this Agreement or any Task Authorization hereunder.
- 18.2** The parties acknowledge that the City is a Florida municipal corporation and subject to the Florida Public Records Law pursuant to Florida Statute Chapter 119.
- 18.3** All drawings, tracings, plans, designs, models, photographs, reports, surveys, calculations, specifications, maps, computer programs and other data prepared or obtained in connection with this Agreement and under a specific Task Authorization hereto shall remain the property of the City whether the project for which they are made are executed or not. A set of electronic files formatted to AutoCAD and in Microsoft Word for specifications and reports shall be provided to the City. A set of reproducible drawings shall be provided for the City's files. The above-specified documentation/data prepared by the Engineer shall be delivered by the Engineer to the City at the conclusion of the project or termination of the Engineer's services. The Engineer, at its own expense, may retain copies for its files and internal use. Any reuse or modification of such Documents for purposes other than those intended by the Engineer in its scope of services shall be at the City's sole risk and without liability to the Engineer.

19.0 ASSIGNMENT

- 19.1** Engineer shall not assign or subcontract this Agreement or any rights or any monies due or to become due hereunder without the prior, written consent of City.
- 19.2** If upon receiving written approval from City, any part of this Agreement is subcontracted by Engineer, Engineer shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.
- 19.3** If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Engineer who shall take immediate steps to remedy the situation. City shall also be given direct access to the subcontractor.
- 19.4** If any part of this Agreement is subcontracted by Engineer, prior to commencement of any work by the subcontractor, Engineer shall require the subcontractor to provide City and its affiliates with insurance coverage as set forth by the City's Risk Manager.

20.0 INDEPENDENT CONTRACTOR

- 20.1** At all times during the term of this Agreement, the Engineer shall be considered an independent contractor. As such, Engineer is responsible for reporting any taxable income they receive from the City, as required by the IRS.

21.0 DEFAULT

- 21.1** Each of the following shall constitute a default under this Agreement: (a) Engineer is adjudged to be bankrupt; (b) Engineer makes a general assignment for the benefit of its creditors; (c) Engineer fails to comply with any of the material terms, conditions or provisions of this Agreement; or (d) Engineer's experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement.
- 21.2** If, during the term of this Agreement, Engineer is in default of any of the material provisions of this Agreement, City may suspend its performance hereunder until such delinquency or default has been corrected; provided, however, that no suspension shall be effective unless and until City gives written notice of the default to Engineer with at least ten (10) days to cure such default. If Engineer fails to correct such delinquency or default within thirty (30) days of suspension by City, City may terminate this Agreement and pursue such remedies that may be available to the City at law or in equity.
- 21.3** Engineer shall be paid compensation for Services satisfactorily performed and completed as of the date of termination. City shall not be liable for partially completed Work. In addition to the remedies available hereunder, the City shall have the right of offset from sums or payments otherwise due the Engineer, any sums or amounts which the Engineer may owe to the City pursuant to the provisions of this Agreement and seek such remedy as may be available, including, but not limited to satisfaction of the performance bond. It is not the intention of this paragraph to limit or prevent delay damages or other damages that may occur.

22.0 PROFESSIONAL QUALIFICATIONS/REPRESENTATIONS

- 22.1** The Engineer shall submit the name or names of the individuals who will be responsible for supplying the required design parameters. Background data shall be furnished for these individuals indicating their training and experience.
- 22.2** Engineer represents that the services provided hereunder shall conform to all requirements of this Agreement; shall be consistent with recognized and sound engineering practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the services rendered under similar conditions provided at the same time and in the same locale.
- 22.3** Engineer represents that the personnel furnishing such services shall be fully qualified and competent to perform the services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their professional knowledge and judgment.
- 22.4** Subject to the provisions of this Section, should Engineer breach the representations set forth herein, City shall have such remedies as may be provided at law or equity. Without limiting the generality of the foregoing, if prior to the expiration of the period specified by Florida Statute from the date Engineer completes its services pursuant to this Agreement, Engineer's services are noncomplying, defective, or otherwise improperly performed and City notifies Engineer in writing that a defect, error, omission or noncompliance has been discovered in Engineer's services, Engineer shall, correctly re-perform such

noncomplying, defective, or otherwise improperly performed services at no additional cost to City;

23.0 TERMINATION FOR CONVENIENCE

- 23.1** City may, by giving thirty (30) days prior written notice to the other, terminate this Agreement in whole or in part, at any time, with or without cause. Upon receipt of such notice, the Engineer shall immediately discontinue all services affected unless the notice directs otherwise.
- 23.2** Upon termination of this Agreement for convenience, the Engineer shall be paid its compensation for services performed as the date of termination based on the percentage of work satisfactorily completed plus reasonable termination expenses. The City shall not be obligated to pay for any services performed by the Engineer after notice of termination has been given. In addition to other remedies available under this Agreement, the City shall have the right to deduct, offset against, or withhold from sums or payments otherwise due the Engineer any sums or amounts which the Engineer may owe to the City pursuant to provisions of this Agreement, or otherwise.
- 23.3** Upon termination of the Agreement, the Engineer must deliver to the City all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete. Engineer shall not be responsible for the final versions of partial documents that are finalized by others.
- 23.4** City agrees to make just and equitable compensation to the Engineer for work completed up through the date the Engineer receives the termination notice. Compensation will not include anticipated profit on non-performed services.
- 23.5** City further agrees to hold Engineer harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

24.0 BREACH OF AGREEMENT TERMS

- 24.1** Any violation or breach of terms of this Agreement on the part of the Engineer or its subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement.
- 24.2** City will provide the Engineer written notice that describes the nature of the breach and corrective actions the Engineer must undertake in order to avoid termination of this Agreement. City reserves the right to withhold payments to the Engineer until such time the Engineer corrects the breach or the City elects to terminate this Agreement. The City's notice will identify a specific date by which the Engineer must correct the breach. The City may proceed with termination of this Agreement if the Engineer fails to correct the breach by the deadline indicated in the City's notice.

- 24.3** The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

25.0 FORCE MAJEURE

- 25.1** Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by: acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes; pandemics; extraordinary breakdown of or damage to City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement.

26.0 NOTICE

- 26.1** Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid, to:

For Engineer:

HDR Engineering, Inc.
Attn: William Bowdoin
4830 W. Kennedy Blvd., Suite 400
Tampa, Florida 33609-2548
Telephone: (813) 282-2300

For City:

City of Lakeland
Lakeland Linder International Airport
Attn: Eugene B. Conrad III, C.M.
3900 Don Emerson Drive, Suite 210
Lakeland, Florida 33811
Telephone: (863) 834-3298

27.0 DISPUTE RESOLUTION

- 27.1** In the event of any dispute or claim arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best effort and negotiate in good faith to settle such dispute or claim by referring the matter to the appropriate designated City personnel and Engineer as described below:

- 27.1.1** Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Both Parties who have not previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10)

days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute or claim. If the matter has not been resolved by these persons within thirty (30) days of the disputing Party's notice or if the Parties fail to meet within ten (10) days unless the aforementioned time periods are otherwise extended as mutually agreed to in writing, the Parties agree to initiate mediation as provided herein.

27.2 If the dispute has not been resolved by negotiation as provided herein, the Parties shall endeavor to settle the dispute by mediation as a condition precedent to pursuing any other available legal or equitable remedy. Either Party may initiate mediation proceedings by a request in writing to the other Party. Thereupon, both Parties will be obligated to engage in mediation. The proceeding will be conducted by a certified Mediator mutually agreeable to both Parties in Polk County, Florida in accordance with the then current Center for Public Resources ("CPR") Model Procedure for Mediation of Business Disputes. The Parties agree to share equally the costs and expenses of mediation, which shall not include the expenses incurred by each Party for its own legal representation in connection with the mediation.

27.3 If the dispute has not been resolved by negotiation or mediation as provided herein within one hundred twenty (120) days of the initiation of such mediation procedure, either Party may avail itself of any legal or equitable remedy, including litigation upon ten (10) days' written notice to the other Party; provided, however, that if one Party has requested the other to participate in a non-binding procedure, as provided for under this Article, and the other has failed to participate, the requesting Party may initiate litigation before expiration of the above-specified period.

28.0 GOVERNING LAW & VENUE

28.1 This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida, without regard to such state's choice of law provisions which may dictate that the law of another jurisdiction shall apply. Venue shall be Polk County, Florida, or the United States District Court in and for the Middle District of Florida, Tampa Division.

29.0 HEADINGS

29.1 Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

30.0 SEVERABILITY

30.1 In the event any portion or part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts thereof shall otherwise be fully enforceable.

31.0 WAIVER AND ELECTION OF REMEDIES

- 31.1** Waiver by either party of any term, condition, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.
- 31.2** No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

32.0 ENTIRE AGREEMENT

- 32.1** This Agreement, including Schedules, Attachments, Appendices and Exhibits attached hereto, constitutes the entire agreement between the City and the Engineer with respect to the services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

33.0 PROHIBITION AGAINST CONTINGENT FEES

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

34.0 PUBLIC RECORDS

IF THE ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: KEVIN COOK - DIRECTOR OF COMMUNICATIONS AT: PHONE: 863-834-6264, E-MAIL: KEVIN.COOK@LAKELANDGOV.NET, ADDRESS: ATTN: COMMUNICATIONS DEPARTMENT, 228 S. MASSACHUSETTS AVE., LAKELAND, FLORIDA 33801.

- 34.1** In accordance with Florida Statute §119.0701, the Engineer shall keep and maintain public records required by the City in performance of services pursuant to the contract. Upon request from the City's custodian of public records, Engineer shall 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 pursuant to Florida Statute Chapter 119 or as otherwise provided by law. Engineer shall 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 Engineer does not transfer the records to the City. Engineer shall, upon completion of the contract, transfer, at no cost, to the City all public records in possession of

the Engineer or keep and maintain public records required by the City to perform services pursuant to the contract. If the Engineer transfers all public records to the City upon completion of the contract, the Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Engineer keeps and maintains public records upon completion of the contract, the Engineer 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.

35.0 THIRD PARTY RIGHTS

35.1 Except as otherwise expressly contained in this Agreement, there are no other third-party intended beneficiaries.

36.0 TRUTH-IN-NEGOTIATION CERTIFICATE

36.1 By execution of this Agreement, Engineer certifies that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price (or task authorization amount) and any additions hereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

37.0 LIMITATIONS

37.1 Neither party shall be liable to the other party for loss of profits or revenue; loss of use; loss of opportunity; loss of goodwill; cost of substitute facilities, goods or services; cost of capital; cost of replacement power; governmental and regulatory sanctions; and claims of customers for such damages; or for any special, consequential, incidental, indirect or exemplary damages.

37.2 The limitations established by this Agreement or by specific Task Authorization shall withstand claims based in contract, tort, strict liability, or otherwise.

38.0 TRADE RESTRICTION CERTIFICATION

38.1 By submission of an offer, the Engineer certifies that with respect to services performed pursuant to this Agreement, the Engineer:

38.1.1 Is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

38.1.2 Has not knowingly entered into any Agreement or subcontract for this Agreement with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

- 38.1.3** Has not entered into any subcontract for any product to be used on the Federally funded project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.
- 38.2** This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.
- 38.3** The Engineer must provide immediate written notice to the City if the Engineer learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Engineer must require subcontractors provide immediate written notice to the Engineer if at any time it learns that its certification was erroneous by reason of changed circumstances.
- 38.4** Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no Agreement shall be awarded to the Engineer or subcontractor:
- 38.4.1** Who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 38.4.2** Whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 38.4.3** Who incorporates in the public works project any product of a foreign country on such USTR list.
- 38.5** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of the Engineer is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 38.6** The Engineer agrees that, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Engineer has knowledge that the certification is erroneous.
- 38.7** This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Engineer or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the City cancellation of the Agreement or subcontract for default at no cost to the City or the FAA.

39.0 CIVIL RIGHTS – GENERAL

39.1 The Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

39.2 This provision binds the Engineer from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

40.0 CIVIL RIGHTS – TITLE VI ASSURANCE

40.1 During the performance of this Agreement, the Engineer, for itself, its assignees, and successors in interest, agrees as follows:

40.1.1 Compliance with Regulations: The Engineer will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

40.1.2 Nondiscrimination: The Engineer, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

40.1.3 Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Engineer of the Engineer's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

40.1.4 Information and Reports: The Engineer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a subcontractor is in the exclusive possession of another who fails or refuses to furnish the information, the Engineer will so certify to the sponsor or the Federal Aviation Administration (FAA), as appropriate, and will set forth what efforts it has made to obtain the information.

40.1.5 Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the non-discrimination provisions of this Agreement, the City will impose such Agreement sanctions as it or the Federal Aviation Administration (FAA) may

determine to be appropriate, including, but not limited to: a) Withholding payments to the Engineer under this Agreement until the Engineer complies; and/or b) Cancelling, terminating, or suspending this Agreement, in whole or in part.

40.1.6 Incorporation of Provisions: The Engineer will include the provisions of the above paragraphs (40.1 – 40.1.5) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Engineer will take action with respect to any subcontract or procurement as the City or the Federal Aviation Administration (FAA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Engineer becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Engineer may request the City to enter into any litigation to protect the interests of the City. In addition, the Engineer may request the United States to enter into the litigation to protect the interests of the United States.

40.1.7 During the performance of this Agreement, the Engineer, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

40.1.7.1 Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

40.1.7.2 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

40.1.7.3 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

40.1.7.4 Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

40.1.7.5 The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

40.1.7.6 Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

40.1.7.7 The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the

Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

40.1.7.8 Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

40.1.7.9 The Federal Aviation Administration's (FAA) Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

40.1.7.10 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

40.1.7.11 Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

40.1.7.12 Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

41.0 EQUAL EMPLOYMENT OPPORTUNITY

41.1 During the performance of this Agreement, the Engineer agrees as follows:

41.1.1 The Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- 41.1.2** The Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- 41.1.3** The Engineer will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Engineer's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 41.1.4** The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 41.1.5** The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 41.1.6** In the event of the Engineer's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Engineer may be declared ineligible for further Government Agreements or federally assisted construction Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 41.1.7** The Engineer will include lines 41.1 through 41.1.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Engineer may request the United States to enter into such litigation to protect the interests of the United States.
- 41.2** Standard Federal Equal Employment Opportunity construction Agreement specifications:
- 41.2.1** As used in these specifications:
- 41.2.1.1** "Covered area" means the geographical area described in the solicitation from which this Agreement resulted;

41.2.1.2 “Director” means Director, Office of Federal Agreement Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

41.2.1.3 “Employer identification number” means the Federal social security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

41.2.1.4 “Minority” includes:

41.2.1.4.1 Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

41.2.1.4.2 Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

41.2.1.4.3 Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

41.2.1.4.4 American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

41.2.2 Whenever the Engineer, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.

41.2.3 If the Engineer is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Engineer shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Engineer and subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Engineers or subcontractors toward a goal in an approved Plan does not excuse any covered Engineer’s or subcontractor’s failure to take good faith efforts to achieve the Plan goals and timetables.

41.2.4 The Engineer shall implement the specific affirmative action standards provided in paragraphs 41.2.7.1 through 41.2.7.12 of these specifications. The goals set forth in the solicitation from which this Agreement resulted are expressed as percentages

of the total hours of employment and training of minority and female utilization the Engineer should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Agreement Compliance Programs office or from Federal procurement Contracting officers. The Engineer is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

41.2.5 Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Engineer has a collective bargaining agreement to refer either minorities or women shall excuse the Engineer's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

41.2.6 In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Engineer during the training period and the Engineer shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

41.2.7 The Engineer shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Engineer's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Engineer shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

41.2.7.1 Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Engineer's employees are assigned to work. The Engineer, where possible, will assign two or more women to each construction project. The Engineer shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Engineer's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

41.2.7.2 Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Engineer or its unions have employment opportunities available, and maintain a record of the organizations' responses.

- 41.2.7.3** Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Engineer by the union or, if referred, not employed by the Engineer, this shall be documented in the file with the reason therefore along with whatever additional actions the Engineer may have taken.
- 41.2.7.4** Provide immediate written notification to the Director when the union or unions with which the Engineer has a collective bargaining agreement has not referred to the Engineer a minority person or female sent by the Engineer, or when the Engineer has other information that the union referral process has impeded the Engineer's efforts to meet its obligations.
- 41.2.7.5** Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Engineer's employment needs, especially those programs funded or approved by the Department of Labor. The Engineer shall provide notice of these programs to the sources compiled under 41.7.7.2 above.
- 41.2.7.6** Disseminate the Engineer's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Engineer in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- 41.2.7.7** Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- 41.2.7.8** Disseminate the Engineer's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Engineer's EEO policy with other Engineers and subcontractors with whom the Engineer does or anticipates doing business.
- 41.2.7.9** Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Engineer's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Engineer shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- 41.2.7.10** Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Engineer's workforce.
- 41.2.7.11** Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
- 41.2.7.12** Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- 41.2.8** Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Engineer's obligations under these specifications are being carried out.
- 41.2.9** Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- 41.2.10** Document and maintain a record of all solicitations of offers for subcontractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- 41.2.11** Conduct a review, at least annually, of all supervisor's adherence to and performance under the Engineer's EEO policies and affirmative action obligations.

- 41.2.12** Engineers are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (41.2.7.1 through 41.2.7.12). The efforts of a Engineer association, joint Engineer union, Engineer community, or other similar groups of which the Engineer is a member and participant may be asserted as fulfilling any one or more of its obligations under 41.2.7.1 through 41.2.7.12 of these specifications provided that the Engineer actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Engineer's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Engineer. The obligation to comply, however, is the Engineer's and failure of such a group to fulfill an obligation shall not be a defense for the Engineer's noncompliance.
- 41.2.13** A single goal for minorities and a separate single goal for women have been established. The Engineer, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Engineer has achieved its goals for women generally), the Engineer may be in violation of the Executive Order if a specific minority group of women is underutilized.
- 41.2.14** The Engineer shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 41.2.15** The Engineer shall not enter into any subcontract with any person or firm debarred from Government Agreements pursuant to Executive Order 11246.
- 41.2.16** The Engineer shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontract as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Agreement Compliance Programs. Any Engineer who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 41.2.17** The Engineer, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 41.2.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Engineer fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

41.2.18 The Engineer shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Engineer shall not be required to maintain separate records.

41.2.19 Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

42.0 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES - CERTIFICATION REGARDING LOBBYING

42.1 The Engineer certifies by signing and submitting this Agreement, to the best of his or her knowledge and belief, that:

42.1.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the Engineer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Agreement, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Agreement, grant, loan, or cooperative agreement.

42.1.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

42.1.3 The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and Agreements under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

42.2 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite

for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- 42.3** Engineer agrees to certify and comply with the provisions set forth in **Exhibit “D”**, incorporated herein by reference and attached hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

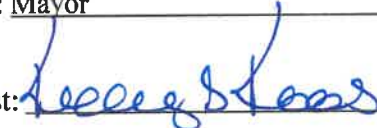
CITY OF LAKELAND, FLORIDA

ENGINEER:HDR ENGINEERING, INC.

By: 

Printed Name: H. William Mutz

Title: Mayor

Attest: 

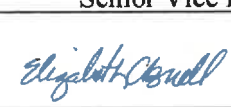
Printed Name: Kelly S. Koos

Title: City Clerk

By: 

Printed Name: Jennifer E. Hunt, PE

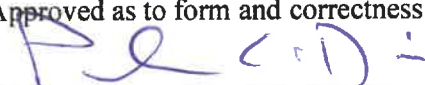
Title: Senior Vice President

Attest: 

Printed Name: Elizabeth C. Buell

Title: Assistant Secretary

Approved as to form and correctness:



Palmer C. Davis, City Attorney



EXHIBIT “A”

SCOPE OF SERVICES

The scope of services to be provided by the Engineer shall include all phases of engineering services and where the scope of services requires the Engineer to provide surveying services, all surveys shall be performed by those only qualified to practice surveying under the laws of the State of Florida.

General engineering services shall include, but are not limited to the following:

- A. Planning:
 - a. Commercial and industrial facilities
 - b. Transportation systems and facilities
 - c. Stormwater management and treatment facilities
 - d. Utilities systems
 - e. Facilities considerations
 - 1. Environmental
 - 2. Social
 - 3. Economical
 - 4. Technical
- B. Preliminary Reports and Studies:
 - a. Engineering
 - b. Financial and Fiscal
 - c. Schematic Layouts and Sketches
 - d. Cost Estimates
- C. Preliminary Design:
 - a. Consultation and advice as to other services
 - b. Criteria and specifications
 - c. Cost estimate updates
 - d. Utility relocation coordination.
- D. Final Design:
 - a. Detailed construction plans and specifications, including utility plans
 - b. Preparation of permitting documents
 - c. Final cost estimates
 - d. Preparation of contract documents

E. Bidding Services:

- a. Attend and conduct technical portion of pre bid meeting and site visits
- b. Take questions from bidders and prepare technical portion of all addenda.
- c. bid evaluations and recommendation to award bids
- d. Support in bid disputes

F. Construction Services:

- a. Construction engineering inspection and management services
- b. Periodic site visits and/or inspections required by other governmental agencies
- c. Shop drawing review
- d. Requests for information responses
- e. Evaluation of change orders
- g. Pay request or invoice approval
- f. Final inspection and certification of work.
- g. Bidding services including bid evaluations and construction administration
- h. Test report reviews
- i. Supplemental sketch preparation
- j. Resident services during construction as requested

G. Additional Services:

- a. Provide expert witness testimony and preparation for trial or hearings
- b. Attend City Commission Meetings, as required to present information
- c. Supplemental Services
- d. Review of plans, specifications and proposals by others
- e. Assistance in obtaining grants and loans
- f. Performance of services related to issuance of bonds
- g. Reports and studies in support of condemnation actions
- h. Provide assistance to City Federal and State grant projects including FDOT LAP (Local Agency Program) projects in planning, design and construction phases to meet Federal and State grant requirements including Title VI, EEO, ADA and E-verify compliances.

I. Prepare plans and specifications for both aviation movement and non-movement areas, parking lots, drainage, storm water management systems to comply with federal and State regulations.

J. Prepare engineering services for projects that are deemed to be necessary by the Federal Aviation Administration or the Florida Department of Transportation to include but not limited to the projects defined in the Master Plan and the JACIP system.

K. Provide structural design, inspections, reports, evaluations and other related services.

L. Provide bidding service to include bid evaluations and recommendation to award bids.

M. Provide construction engineering inspection and management services in the construction phase.

N. Provide assistance for FAA and FDOT grant applications, land acquisition, surveying, subsurface investigation, materials testing, airport planning, including aviation and land use planning, financial planning, design and construction observation, resident inspection, environmental evaluations including impact statements, permitting assistance and determinations of regional impact.

APPENDIX "A"

ENGINEER'S PROFESSIONAL ENGINEERING SERVICES FEE SCHEDULE



APPENDIX "A"

SCHEDULE OF HOURLY RATES AND REIMBURSABLE EXPENSES

Billing Classification	2021 Rates
Professional Services (Engineering / Architectural / Planning / Environmental Services)	
Senior Principal / Corporate Officer	\$ 255.00
Senior Technical Advisor / Quality Control Manager	\$ 235.00
Senior Project Manager / Special Consultant	\$ 225.00
Project Manager	\$ 190.00
Senior Professional IV	\$ 220.00
Senior Professional III	\$ 190.00
Senior Professional II	\$ 170.00
Senior Professional I	\$ 150.00
Professional II	\$ 120.00
Professional I	\$ 105.00
Construction Administration and Services	
Senior Construction Manager / Field Representative	\$ 135.00
Construction Manager / Field Representative	\$ 110.00
Support Staff	
Senior Accountant / Administrator	\$ 105.00
Accountant / Administrator	\$ 90.00
Sr. Designer/CAD Technician	\$ 130.00
Designer/CAD Technician	\$ 105.00

Notes:

The above hourly rates include direct and indirect costs except direct expenses. Indirect costs include wages, salaries, payroll related taxes, insurance, overhead and profit.

Any adjustments to the rates schedule must be mutually agreed to by the City and the Engineer.

APPENDIX “B”
CITY OF LAKELAND
CONSULTANT EXPENSE REIMBURSEMENT POLICY
REVISED 06/18/2018

General

This policy governs all eligible reimbursement expenses paid to consultants hired by City Departments under professional service contracts. All reimbursable expenses must adhere to the following provisions and be verified and approved by the appropriate department head, or their designated representative administering the professional contract. An exhibit to each contract or agreement must be accepted by each professional services consultant prior to the agreement being considered fully executed. All proposed reimbursable consultant expenses must be submitted to the managing designee with matching receipts and specific documentation outlining the nature of the business conducted in association with the expenditure prior to approval by the City.

Consultant Contract Provisions

1. Reasonable expenses will be reimbursed for customary business activities deemed integral to the completion of the consulting assignment (i.e. phone calls, copies, printing, facsimile services, etc.)
2. Reasonable travel expenses will be reimbursed at a rate not-to-exceed the following:
 1. Car Rental – Limited to mid-size vehicles or smaller.
 2. Airline Travel – Limited to tourist or coach class fare, all efforts will be made to identify the most economical flight options available at time of scheduling.
 3. Use of private automobile for administration of project related requirements may be reimbursed at the current IRS mileage reimbursement rate. (www.irs.gov)
 4. Local hotel accommodations will be reimbursed at a rate not-to-exceed the GSA lodging rate for Tampa, Florida per night plus sales tax. (www.gsa.gov) Incidentals related to the hotel stay will not be reimbursed.
 5. Meal expenses will be reimbursed at a rate not-to-exceed the GSA M&IE rate for Tampa, Florida. A maximum of 15% gratuity on meals will be allowed.
 6. No entertainment expenses will be reimbursed, including, but not limited to, alcoholic beverages, in-room entertainment, registrations, tickets to sporting events or entertainment events, banquet and or client entertainment.
 7. No reimbursement will be provided for personal expenses of any nature.
 8. When representing the interest of the City outside of the Lakeland area, reimbursement of reasonable hotel accommodation costs will be provided as determined by the responsible Department Head.

Collection of Back-up Documentation

All consultant expenditures submitted for reimbursement shall be properly documented and approved by the appropriate department head or designated representative managing the agreement. Original receipts must be provided for payment, along with documentation on purpose. The department head or designated representative will be responsible for the collection of this documentation and for communicating with the consultant on issues related to reimbursable costs or back-up documentation. It will be the responsibility of the department head or designated representative to obtain the necessary approvals from the City Managers' Office for variances to the policy.

Prior to payment of invoices, the following will be required:

1. Verification that invoice references the correct professional service contract.
2. Verification that the specific contract deliverables have been met and scope of work has been satisfactorily completed.
3. Verification that all consultant reimbursable expenses were incurred in conjunction with specified services rendered and billed at cost.
4. All reimbursable expenses must be submitted with receipts documenting expenses.
5. Verify all expense calculations are correct.

Variance Approval

All variances or modifications to the provisions in this policy must be approved by the City Manager or authorized designee.

ATTACHMENT “1”

CITY OF LAKELAND INSURANCE REQUIREMENTS PROFESSIONAL MUNICIPAL ENGINEERING SERVICES (CCNA)

STATEMENT OF PURPOSE

The City of Lakeland (the “City”) from time to time enters into agreements, leases and other contracts with Other Parties (as hereinafter defined).

Such Agreements shall contain at a minimum risk management/insurance terms to protect the City’s interests and to minimize its potential liabilities. Accordingly, the following minimum requirements shall apply:

CITY DEFINED

The term City (wherever it may appear) is defined to mean the City of Lakeland itself, its Commission, employees, volunteers, representatives and agents.

OTHER PARTY DEFINED

The term Other Party (wherever it may appear) is defined to mean the other person or entity which is the counter-party to the Agreement with the City and any of such Other Party’s subsidiaries, affiliates, officers, employees, volunteers, representatives, agents, contractors and subcontractors.

LOSS CONTROL/SAFETY

Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees, and property. The Other Party shall comply with all laws, rules, regulations or ordinances related to safety and health, and shall make special effort to anticipate and detect hazardous conditions and shall take such precautionary and prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped at any time, without liability, if conditions exist that present immediate danger to persons or property. The Other Party acknowledges that such stoppage, or failure to stop, will not shift responsibility for any damages from the Other Party to the City.

INSURANCE - BASIC COVERAGES REQUIRED

The Other Party shall procure and maintain the following described insurance, except for coverage specifically waived by the City of Lakeland, on policies and with insurers acceptable to the City, and insurers with AM Best ratings of no less than A.

These insurance requirements shall in no way limit the liability of the Other Party. The City does not represent these minimum insurance requirements to be sufficient or adequate to protect the Other Party’s interests or liabilities but are merely minimums.

Except for worker’s compensation and professional liability, the Other Party’s insurance policies shall be endorsed to name the **City of Lakeland as an additional insured**. It is agreed that the

Other Party's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by The City of Lakeland for liability arising out of the operations of this agreement.

Except for workers compensation, the Other Party waives its right of recovery against the City, to the extent permitted by its insurance policies.

The Other Party's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by the City. They shall be reduced or eliminated at the option of the City. The Other Party is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the City shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of the City of Lakeland, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract, or lease.

Commercial General Liability: This insurance shall be an "occurrence" type policy written in comprehensive form and shall protect the Other Party and the additional insured against all claims arising from bodily injury, sickness, disease, or death of any person other than the Other Party's employees or damage to property of the City or others arising out of any act or omission of the Other Party or its agents, employees, or Subcontractors and to be inclusive of property damage resulting from explosion, collapse or underground (xcu) exposures. This policy shall also include protection against claims insured by usual personal injury liability coverage, and to insure the contractual liability assumed by the Other Party under the article entitled **INDEMNIFICATION**, and "**Products and Completed Operations**" coverage.

The Other Party will continue to purchase products and completed operations coverage for a minimum of three years beyond the City's acceptance of renovation or construction properties.

The liability limits shall be:

Bodily Injury and	\$1,000,000
Property Damage	Single limit each occurrence

Business Automobile Liability: Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

The liability limits shall be:

Bodily Injury and	\$1,000,000
Property Damage	Combined Single limit each accident

Workers' Compensation: Workers' Compensation coverage to apply for all employees for statutory limits and shall include employer's liability with a limit of \$100,000 each accident, \$500,000 disease policy limits, \$100,000 disease limit each employee. ("All States" endorsement is required where applicable). If exempt from Worker's Compensation coverage, as defined in Florida Statue 440, the Other Party will provide a copy of State Workers' Compensation exemption.

All subcontractors shall be required to maintain Worker's Compensation.

The Other Party shall also purchase any other coverage required by law for the benefit of employees.

ADDITIONAL INSURANCE

Additional Insurance: The City requires the following types of insurance:

Professional Liability/Malpractice/Errors or Omissions Insurance: The Other Party shall carry professional malpractice insurance throughout the term of this Contract and shall maintain such coverage for an extended period of three (3) years after completion and acceptance of any work performed hereunder. At all times throughout the period of required coverage, said coverage shall insure claims accruing from the first date of the Contract through the expiration date of the last policy period. In the event that Other Party shall fail to secure and maintain such coverage, Other Party shall be deemed the insurer of such professional malpractice and shall be responsible for all damages suffered by the City as a result thereof, including attorney's fees and costs.

The liability limits shall be: \$1,000,000 per claim and in the annual aggregate

EVIDENCE/CERTIFICATES OF INSURANCE

Required insurance shall be documented in Certificates of Insurance which provide that the City shall be notified at least 30 days in advance of cancellation, nonrenewable, or material change.

New Certificates of Insurance are to be provided to the City at least 10 days prior to coverage renewals.

If requested by the City, the Other Party shall furnish complete copies of the Other Party's insurance policies, forms and endorsements with sensitive information redacted.

For Commercial General Liability coverage, the Other Party shall, at the option of the City, provide an indication of the amounts of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party's obligation to fulfill the insurance requirements herein.

ATTACHMENT 1

INDEMNIFICATION CONSULTANT

To the fullest extent permitted by laws and regulations, and in consideration of the amount stated on any Purchase Order or Task Authorization, the Consultant shall indemnify and hold harmless the City, and its officers and employees, from all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of this Contract.

In any and all claims against the City, or any of its officers or employees, by any person employed or utilized by the Consultant in the performance of this Contract, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant or any other person or organization under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts, nor shall this indemnification obligation be limited in any way by any limitation on the amount or type of insurance coverage provided by the City, the Consultant, or any other person or organization.

Applicability: It is the express intent of the Consultant that this agreement shall apply for the project(s) or time period indicated below. (Check and complete one):

 X Agreement is applicable to all contracts, purchase orders and other work performed for the City of Lakeland for the time period of not more than five (5) years.

October 1, 2021 to September 30, 2024
(Date) (Date)

(OR)
_____ Agreement is limited to Purchase Order # _____, or Contract dated _____.

Subrogation: The Consultant and its Subcontractors shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against the City, except for "Professional Liability." In the case of "Professional Liability," the Consultant and its Subcontractors shall require their insurance carriers to waive all rights of subrogation except in situations where gross negligence is shown on the part of the City.

Release of Liability: Acceptance by the Consultant of the last payment shall be a release to the City and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the City or of any person relating to or affecting the work unless otherwise specified in a written agreement between Consultant and City at the time of final payment.

Savings Clause: The parties agree that to the extent the written terms of this Indemnification conflict with any provisions of Florida laws or statutes, in particular Sections 725.06 and 725.08 of the Florida Statutes, the written terms of this indemnification shall be deemed by any court of competent jurisdiction to be modified in such a manner as to be in full and complete compliance with all such laws or statutes and to contain such limiting conditions, or limitations of liability, or to not contain any unenforceable or prohibited term or terms, such that this Indemnification shall be enforceable in accordance with and to the greatest extent permitted by Florida Law.

HDR Engineering, Inc.
Name of Organization
BY: [Signature]
Signature of Owner or Officer
Jennifer E. Hunt, PE, Senior Vice President
E-mail: erin.hunt@hdrinc.com

STATE OF : Florida
COUNTY OF: Hillsborough

813.282.2300
Organization Phone Number

The foregoing instrument was acknowledged before me, by means of physical presence this 10th day of November, 2021.

by Jennifer E. Hunt, PE, of HDR Engineering, Inc.
Printed Name of Owner / Officer Corporate or Company Name

He/She is personally known to me or has produced _____ as
State Driver's License Number

identification, and did X / did not _____ take an oath.

[Signature]
Signature of Person Taking Acknowledgment

Michelle J. Pardo
Printed Name of Person Taking Acknowledgment



MICHELLE J. PARDO
Commission # HH 045144
Expires September 22, 2024
Bonded Thru Budget Notary Services

Notary Seal

CITY OF LAKE LAND

BY: [Signature]
Joyce Dias, Risk Management & Purchasing Director

DATE 11/17/2021

EXHIBIT “B”

ADDITIONAL FEDERAL AVIATION ADMINISTRATION (FAA) and FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) CONTRACT PROVISIONS

FEDERAL AVIATION ADMINISTRATION (FAA)

- a. Airport and Airway Improvement Act of 1982
- b. Clean Air and Water Pollution Control – 2 CFR §200, Appendix II(G)
- c. Debarment and Suspension – 49 CFR Part 29, 2 CFR Part 180 (Subpart C), 2 CFR Part 1200, and DOT Order 4200.5
- d. Disadvantaged Business Enterprise – 49 CFR Part 26
- e. Distracted Driving – Executive Order 13513 and DOT Order 3902.10
- f. Energy Conservation Requirements – 2 CFR §200, Appendix (H)
- g. Federal Fair Labor Standards Act (Federal Minimum Wage) – 29 USC § 201, et seq
- h. Prohibition of Segregated Facilities – 14 CFR § 60
- i. Occupational Safety and Health Act of 1970 – 29 CFR Part 1910
- j. Procurement of Recovered Materials – 2 CFR §200.322, 40 CFR Part 247, Solid Waste Disposal Act
- k. Rights to Inventions – 2 CFR §200, Appendix II(F) and 37 CFR §401
- l. Seismic Safety – 49 CFR Part 41
- m. Tax Delinquency and Felony Convictions – Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), and similar provisions in subsequent appropriations acts. As well as DOT Order 4200.6 – Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions
- n. Veteran’s Preference – 49 USC §47112(c)

FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)

- a. E-VERIFY – The Engineer shall utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the Engineer during the term of the Agreement and shall expressly require any subcontractors performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Agreement term.

EXHIBIT "C"

SPECIFICATION OF SAFETY and OCCUPATIONAL HEALTH REQUIREMENTS CITY OF LAKELAND RISK MANAGEMENT and PURCHASING REVISED JULY 2020

All City of Lakeland project representatives who assume responsibility for contract management will be responsible for ensuring compliance with these safety requirements by all Contractors and Subcontractors.

General

1. All contractors are responsible for providing their employees with a safe and healthful working environment as required the Occupational Health and Safety (OSH) Act of 1970 and the Occupational Safety and Health Administration (OSHA) standards. Therefore, the contractor and their employees are responsible for following OSHA standards, applicable state regulations, and the City of Lakeland Safety Practices and Policies.
2. The City of Lakeland's Safety Team and City management reserve the right to STOP work for any condition found to be Immediately Dangerous to Life and Health (IDLH). The contractor is solely and exclusively responsible for compliance with all safety requirements and the safety of all their employees and property on the project site. Note: Nothing in this requirement is to be construed to as removing or shifting responsibility from the contractor.
3. The parties hereto expressly agree that the obligation to comply with applicable safety provisions is a material provision of this Contract and a duty of the Contractor. The City reserves the right to require demonstration of compliance with the safety provisions of this Contract. The parties agree that such failure is deemed to be a material breach of this Agreement. The Contractor agrees upon such breach, all work under the Contract shall terminate until compliance with the provisions of this Agreement is demonstrated. In no event shall action or failure to act on the part of the City be construed as a duty to enforce the safety provisions of this Agreement, nor shall it be construed to create liability for the City for any act or failure to act in respect to the safety provisions of this Agreement.

Personal Protective Equipment (PPE) (OSHA 29CFR§1910 Subpart I)

It is the contractor's sole responsibility to provide adequate PPE for their employees. Additionally, the contractor is responsible for training their employees in the proper selection, maintenance, use of PPE. Minimal PPE requirements on City of Lakeland worksites:

1. **Foot protection** must meet ANSI Z41.1-1999 standards and worn on all City properties.
2. **Head protection** must meet ANSI Z89.1-1986 standards and worn in all areas except office buildings and office trailers.
3. **Eye and face protection** must meet ANSI Z87.1-1989 standards and worn in all areas except office buildings and office trailers.

4. **Hand and Arm Protection** must meet OSHA 29CFR§1910.138 requirements for proper selection, inspection, and care.
5. **Hearing Protection** must meet ANSI S3.19-74, OSHA 29CFR§1910.95(j) and 29CFR§1910.95 Appendix: B requirements.

Hearing protection must be worn in areas where the noise level is over 85 dB

Housekeeping

It is the contractor's sole responsibility to keep the project work site clean during and after working hours. Contractor shall supply waste receptacles for each site location. They shall be emptied not less frequently than once each working day, unless unused, and shall be maintained in a clean and sanitary condition. At the completion of the contract the contractor will ensure that all excess materials are removed from the work site and that the worksite is left clean and safe. If the contractor leaves a project work site unkept and in a hazardous condition; the City will have the area cleaned and forward the bill to the contractor.

Smoking

Smoking is permitted only in designated areas. Receptacle's must be used or waste removed in contractors' waste disposal container.

Safety Kick-offs and Safety Stand-Downs

A safety kick-off to disseminate safety expectations will be conducted before the project commences. Safety sand-downs will be conducted when major safety concerns, accidents, or near misses occur.

Training Documentation

OSHA requires documentation of all safety training provided to employees by their employers. Documentation of all required safety training required for work proposed for this contract must be submitted within thirty days of contract award or before commencement of contracted work. Please reference the Safety Requirements Report for details.

Written Safety Programs or Plans

Contractors awarded contracts with the City of Lakeland must, thirty days of contract award or before commencement of contracted work, provide the Risk Management Office written safety programs or plans. Please reference the requirements set forth in the Safety Requirements Report. The Risk Management Office will approve the submitted safety programs or plans as adequate to reduce risk of the work being performed

Supplemental #1: Construction Safety

All contracted construction work will be performed per OSAH 29CFR§1926 standards, the contractor is responsible for ensuring that their employees are trained to and follow these OSHA standards. The City of Lakeland's Safety Team reserves the right to inspect all worksites and advise the contractor or their representatives on adjusting the work site, if needed.

- A. PPE:** The following PPE will be worn the entire time employees are on the worksite, including breaks and lunch:
1. Hardhats
 2. Safety boots
 3. Safety glasses
- B. Scaffolding Safety:** All Scaffolding will be erected per OSHA 1926 Subpart L, requirements and inspected daily. Scaffolds will not be used without the proper inspection tags, having the scaffolding inspected daily, and the inspection tags properly and legibly signed off daily. Scaffolds that are no longer needed will be removed as soon as safely possible.
- C. Barricade Tape:** All barricade tape will have tags placed on all sides with the company, employee, contact information, date tape applied, and date tape will be removed. The City of Lakeland's Safety Team reserves the right to inspect, adjust, or remove tape that is abandoned or not placed per this requirement.

Supplemental #2: Sanitation

Sanitation must meet 29CFR§1910.141 for availability, housekeeping, and waste disposal. In areas where restroom facilities are not available, restrooms are in secured areas, and where there are more than ten contract and subcontract employees working on a project site the contractor is responsible for providing restroom facilities (one portable toilet for every 15 employees). Contractors must provide a separate lockable portable toilet for every 15 female employees on the work site. Contractors must provide hand washing facilities with the portable toilets; it is suggested to have one for every three portable toilets. It is the contractor's responsibility to have any portable toilets cleaned at least weekly and removed within 3 days of contract completion.

Supplemental #3: Road Work Safety / Work Zone Safety

Work zones are any areas where work is being performed by a contractor. Work zones can present hazards to citizens, City employees, and contractors; it is the contractor's responsibility to take the proper precautions to reduce these risks. Work zone protection is the adequate safe-guarding or protecting of pedestrians, motorists, employees, and equipment using PPE, suitable barriers, warning signs, lights, flags, traffic cones, high-level standards, barricade rope, flaggers, etc., as the job requires on approaches to work areas, excavations, open manholes, parked equipment, etc. Proper work area protection shall be planned to ensure the safety and protection of the employee, the public and the equipment.

- A. PPE:** All employees working on or within 15 feet of a roadway for longer than 15 minutes all employees must wear FDOT approved Class 3 reflective clothing or vests. Flaggers shall wear a red/orange or green-warning vest that is at least ANSI/SEA Class 2 Apparel compliant. Warning garment worn during periods of limited visibility shall be of a reflective material meeting those specifications outlined in the ANSI/SEA Class 3 Apparel.
- B. Maintenance of Traffic (MOT) or Temporary Traffic Control (TTC):** The contractor will perform contractual duties in a manner that reduces interference with public traffic as much as possible. Such times as the contractor must perform work that impedes public traffic; for example, when crossing, obstructing, or closing roads, driveways, and

walkways (private or public). The contractor is solely responsible for establishing and maintaining safe detours and lane closures per FDOT MOT/TTC requirements. The contractor is responsible for informing property-owners when private drives will be closed or redirected. The City of Lakeland's Safety Team reserves the right to inspect all worksites and advise the contractor or their representatives on adjusting the work zone, if needed.

MOT/TTC can be performed by a FDOT MOT/TTC intermediate certified employee or supervised by a FDOT MOT advanced certified employee.

- a. **Signs:** Work zone warning signs must be placed in accordance with FDOT requirements in a manner that establishes the best protection for citizens, employees, and contractors. Signs must be removed or covered when work is not underway, and the hazard is not present.
- b. **Barricades:** Only FDOT approved barricades and cones must be utilized for MOT/TTC. The contractor is responsible for ensuring that any barricades have warning illumination, such as beacon lights, from sunset to sunrise.
- c. **Flaggers:** Flaggers or other appropriate traffic control shall be used wherever there is a doubt that signs, signals, and barricades can achieve effective protection.
- d. **Vehicles, Equipment, and Materials:** The contractor is responsible for placing vehicles, equipment, and materials so that these items pose the least impedance and hazards to traffic (vehicle or pedestrian). Vehicles or equipment working on or within ten feet of the roadway must be equipped with a minimum of one amber 360-degree Class I warning device. The warning device must be in operation all the time the vehicle or equipment is on or within ten feet of the roadway.

Supplemental #4: Excavation and Trenching

Contractors must follow OSHA 29CFR §1926.650 and all other applicable standards for excavation and trenching. Note: As a rule, the City of Lakeland has adopted the policy of classifying all soils as Class C. Therefore, all trench or excavation work shall comply with those standards required for Class C soils. Contractors are responsible for obtaining buried utility mapping from 811 before you dig; contractors are liable for all damages resulting from digging operations. The City of Lakeland's Safety Team reserves the right to inspect, request changes, and close worksites for safety concerns.

Supplemental #5: Energized Power Systems

Strict adherence to the table of distances to energized systems is mandatory. Unless otherwise specified by Lakeland Electric Systems Control, the contractor may not be any closer than 20-feet to energized systems. The contractor must notify System control at (863) 834-6560 for line clearance.

ALL UNQUALIFIED PERSONNEL SHALL NOT GET CLOSER THAN 20 FEET (ENCROACHMENT) ENERGIZED EQUIPMENT OR AREAS

- A. The contractor shall make coordination with Lakeland Electric Delivery Operations

Workforce Management Coordinator by calling (863) 834-6751 no less than 24 hours prior to work commencing. Such coordination is necessary to cover any electrical lines or to hold or stabilize any poles that may be within the vicinity of the work zone. In addition, the attached waiver must be completed by the contractor and returned to the COL Safety Division prior to commencement of work.

- B.** The contractor is also responsible for all locates for underground utilities and for systems. This may be accomplished by contacting Sunshine State One-Call at 1-800-432-4770.

Supplemental #6: Equipment Safety

All operations involving equipment must be conducted according to the applicable OSHA standards. All equipment operators must be certified or licensed according to federal, state, and local requirements. All equipment must be inspected according to OSHA requirements and before use by the operator. The contractor is solely responsible for compliance with this safety requirement.

- a. Powered industrial trucks:** all operations that are performed using powered industrial trucks (forklifts, lulls, etc.) must be conducted in accordance with OSHA 29 CFR §1910.178 for general industry and 29 CFR §1926.600 and 29 CFR §1926.602 for construction.
- b. Aerial lifts:** all operations that are performed using aerial lifts (boom lifts, cherry pickers, snorkel lifts, etc.) must be conducted in accordance with OSHA 29 CFR §1910.67 for general industry and 29 CFR §1926.453 for construction.

Supplemental #7: Storm Drainage and Surface Water Protection

The Contractor shall comply with all applicable ordinances, rules, and regulations restricting the introduction of non-storm water discharges to the City's municipal separate storm water system (MS4) and/or surface water bodies, including: The Code of Ordinances of Lakeland, Part II, Section 86; Polk County Ordinance 93-06; and, the City of Lakeland Land Development Regulations, Article 6.

- A.** The Contractor is prohibited from placing, depositing, or dumping of any dirt, sweepings, filth, slops, litter, loose materials, water, grease, slippery materials, etc. in or upon any street, highway, alley, sidewalk, park, lake, or other public place in the City.
- B.** The Contractor will develop and implement a plan to utilize best management practices (BMPs), including, but not limited to, treatment methods and practices, to control polluted runoff, spillage, leaks, sludge, waste, or runoff from raw material to prevent flooding and/or adverse impacts to the natural resources of the City, and ensure the elimination of pollutants discharging to the MS4 and/or any surface water body during construction and maintenance activities. To the maximum extent possible, the Contractor will utilize schedules of activities, prohibitions of practices, maintenance procedures, and other management activities to prevent or eliminate pollutants from entering the MS4 or being discharged to surface water bodies.

The Contractor will utilize proper erosion, liquid and sediment control measures; provide inlet protection for storm drains and drainage conveyances, ponds, and easements; and, take all reasonable precautions to contain runoff on-site and eliminate illicit discharges to the MS4 and/or surface water bodies. Illicit discharge includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping of materials, rinse water, or waste products into the MS4 and/or surface water bodies of the City.

CONTRACTOR ANNUAL AUDIT FORM

Contractor:	
Audit Date:	

Audit Item	Comments
EMR < 1.0	
Drug and Alcohol Policy Acceptable	
Written Safety Program Acceptable	
Employee Training Records Current	
Safety Performance onsite acceptable	

Contractor _____ ☐ is ☐ is not
approved for continued listing on PSM-Approved Contractors List.

Audit Performed by:
Signature: _____ Date: _____

CONTRACTOR SAFETY EVALUATION				
Company Name				P.O. Box
Street Address		City	State	Zip Code
Business Contact		Title	Telephone Number	
Safety Contact		Title	Telephone Number	
What is your type of business?			SIC Code	
What is your company accident statistics for the Frequency Rate of Medical Injuries and Lost Time Injuries Rate as compared to the National Average for your industry as denoted by the Bureau of Labor Statistics for your SIC Code for the last three years? (See explanation below)				
Year	Frequency Rate	National Average for your SIC Code	Lost Time Injury Rate	National Average for your SIC Code

*Frequency Rate is the number of injuries requiring medical attention multiplied by 200,000 divided by the number of Man-hours worked.

Example:
$$\frac{\text{Number of Accidents Requiring Medical Attention} \times 200,000}{\text{Number of Man-hours}}$$

*Lost Time Injury Rate is the number of Lost Time Injuries multiplied by 200,000 divided by the number of Man-hours worked, not considering injuries that only caused restricted work activity as Lost Time Accidents.

Example:
$$\frac{\text{Number of Lost Time Accidents} \times 200,000}{\text{Number of Man-hours}}$$

What is your company's current Experience Modification Rate (EMR)? (*Please attach a copy rating received on Insurance Company Letterhead.)			
Do you conduct regularly scheduled Safety Meetings for your employees? (If yes, how often?)		Yes	No

How do you document whether or not the employees understood the training?			
Who conducts the Safety Meetings?			
Name		Title	
Do you have a documented Safety & Health training/orientation program for new employees? <i>(Write any comments in space below)</i>		Yes	No
Do you have a written Safety Program? <i>(Write any comments in space below)</i>		Yes	No
Do you conduct field Safety Inspections to determine compliance with state, federal, local and company regulations/procedures?		Yes	No
If yes please provide the following:			
Name		Title	
How do you follow up the inspections to ensure any needed corrections are made?			
Does your company understand that if they were awarded the following contract they must do the following?			
All contractors awarded work that is on the systems covered by the Process Safety Management Standard shall provide documentation that all employees have received training in the potential fire, explosion, or toxic release hazards related to his/her job and the process and the applicable provisions of the emergency plan. The documentation shall include the identity of the contract employee, the date of the training, and the means used to verify that the employee understood the training. In addition, a Job Hazard Analysis (JHA) is required for all work on systems covered by the Process Safety Management Standard and the JHA must be reviewed by all personnel			

involved in the work beginning and as needed during the process of work. Any modification to the JHA during the job must be approved by the senior contractor supervisor on site and either the City of Lakeland Safety Manager, or the North M^cIntosh Plant Superintendent, or their designees.

Please have an officer of the company indicate "Yes" or "No" as an answer pertaining to the question above and sign in the space below:		Yes	No
Name	Date		

How do you intend to comply with these requirements?

--

Do you have any other information you believe would be valuable in evaluating your company's safety program? If so, please explain or attach to this document.

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EXHIBIT "D"

CERTIFICATE OF ENGINEER

I hereby certify that I am the Senior Vice President and duly authorized representative of the firm, HDR Engineering, Inc. whose address is 4830 W. Kennedy Blvd., Suite 400, Tampa, Florida 33609 and that neither I nor the above firm I here represent has:

- (A) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Engineer) to solicit or secure this Agreement.
- (B) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
- (C) paid or agreed to pay any firm, organization, or person (other than a bona fide employee working solely for me or the above Engineer) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation in connection with this Agreement involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and federal laws, both criminal and civil.

Jennifer E. Hunt, PE, Senior Vice President

Printed Name


Signature