

CONTRACT NO. 2022-31.001
Professional Construction, Engineering, and Inspection (CEI) Services
For 2023 Diesel Bypass Pump Installation Projects

This Contract No. 2022-31.001 Professional Construction, Engineering, and Inspection (CEI) Services For 2023 Diesel Bypass Pump Installation Projects ("Contract") is made and entered by and between the City of North Port, Florida, a municipal corporation of the State of Florida, ("City") and CHA Consulting, Inc., a New York Corporation registered to conduct business in the State of Florida, with a local business address of 1201 Hays Street, Tallahassee, FL 32301-2525 ("Consultant").

NOW, THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. CONSULTANT'S SERVICES; TERM

- A. Consultant agrees to diligently and timely perform services for the City relating to Professional Engineering, to complete inspection services for construction, engineering and inspection of the installation of diesel bypass pump projects as identified in the Request for Proposal ("RFP") No. 2022-31 and Consultant's proposal submitted October 27, 2022. The overall Scope of Services is described in the attached Exhibit A ("Scope of Services") with detailed tasks and associated fees as described in the Fee Schedule as attached Exhibit B ("Fee Schedule").
- B. This Contract must commence immediately upon the date of execution of this Contract by both the City and Consultant ("Effective Date") and upon Consultant's receipt of a written Notice to Proceed from the City's Purchasing office and must continue through the completion of the project as described in the Project Schedule as attached in Exhibit C ("Project Schedule"). The expected completion date is two years from the notice to proceed.

2. COMPENSATION AND PAYMENT FOR CONSULTANT'S SERVICES

A. COMPENSATION

- (1) Consultant must perform the Scope of Services, for a not to exceed fee of ONE HUNDRED FOUR THOUSAND THREE HUNDRED TWENTY DOLLARS AND ZERO CENTS (\$104,320.00). This fee includes all profit, direct and indirect labor costs, personnel related costs, overhead and administrative costs, travel related out-of-pocket expenses and costs, and all other costs which are necessary to provide the services as outlined in this Contract. The fee must conform with the Fee Schedule
- (2) A claim for reimbursement for these expenses must not be made to the City.
 - a. Travel related expenses and costs including labor.
 - b. Four (4) sets of signed and sealed permitting plans.
 - c. Computer usage, telephone expenses, fax, copies, printing, and postage.
 - d. Subcontractor/subconsultant mark-up.

- (3) The City's performance and obligation to pay under this Contract are contingent upon an appropriation by the City Commission.

B. METHOD OF PAYMENT

- (1) The City pays Consultant through payment issued by the Finance Department in accordance with the Florida Local Government Prompt Payment Act, Florida Statutes, Section 218.70, *et seq*, upon receipt of Consultant's invoice and written approval of same by the City's Administrative Agent indicating that services have been rendered in conformity with this Contract. Consultant must submit an invoice for payment to the City for those specific tasks as described in the Scope of Services that were completed during that invoicing period.
- (2) For those specific services that were partially completed, progress payments will be paid in proportion to the percentage of completed work on those specific services approved in writing by the City's Administrative Agent based on the percentage of the amount for those specific services.
- (3) Consultant's invoices must be in a form satisfactory to the City of North Port Finance Department, who will initiate disbursements.
- (4) Payment due dates, late payments, and interest will be calculated, paid, and assessed in accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq*.

3. INDEMNITY

- A. TO THE EXTENT PERMITTED BY FLORIDA LAW, THE CONSULTANT MUST INDEMNIFY AND HOLD HARMLESS THE CITY, AND ITS OFFICERS AND EMPLOYEES, FROM 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 THE CONTRACT WORK. THE CONTRACT DOES NOT CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY OR CONSENT BY THE CITY OR ITS SUBDIVISIONS TO SUIT BY THIRD PARTIES.**
- B. FURTHER, THE CONSULTANT MUST FULLY INDEMNIFY, AND HOLD HARMLESS THE CITY FROM ALL SUITS, ACTIONS, DAMAGES, AND COSTS OF EVERY NAME AND DESCRIPTION, INCLUDING ATTORNEYS' FEES, ARISING FROM OR RELATING TO VIOLATION OR INFRINGEMENT OF A TRADEMARK, COPYRIGHT, PATENT, TRADE SECRET OR INTELLECTUAL PROPERTY RIGHT.**
- C. The City must provide all available information and assistance that the consultant may reasonably require regarding any claim. In the event of a claim, the city must promptly notify the consultant in writing by prepaid certified mail (return receipt requested) or by delivery through any nationally recognized courier service (such as federal express or ups) which provides evidence of delivery, at the address provided for receipt of notices in this Contract.

- D. The insurance coverage and limits required in this Contract may or may not be adequate to protect the city and such insurance coverage will not be deemed a limitation on the consultant's liability under the indemnity provided in this section. In any proceedings between the parties arising out of or related to this indemnity provision, the prevailing party must be reimbursed all costs, expenses, and reasonable attorney fees through all proceedings (at both trial and appellate levels).
- E. This Contract must not be deemed to affect the rights, privileges and immunities of the city as set forth in Florida Statutes Section 768.28.
- F. The terms of this section survive the termination or completion of this Contract work.

4. CONSULTANT'S INSURANCE

A. INSURANCE

Before performing any work, Consultant must procure and maintain, during the life of the Contract, the insurance listed below, unless otherwise specified. The policies of insurance must be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department of the State of Florida and meet a minimum financial AM Best and Company rating of no less than "Excellent."

No changes are to be made to these specifications without the City Manager or designee's prior written approval. The City Manager or designee may alter the amounts or types of insurance policies required by this Contract upon agreement with Consultant.

- (1) Workers' Compensation and Employer's Liability Insurance: Coverage to apply for all employees at the statutory limits provided by state and federal laws. Include proof of current Workers' Compensation Coverage or Workers' Compensation Exemption (notarized affidavit). The policy must include Employers' Liability with a limit of \$100,000 each accident; \$100,000 each employee; and \$500,000 policy limit for disease.
- (2) Comprehensive Commercial General Liability Insurance: Aggregate must apply separately to this Contract. Minimum \$500,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 damage to rented premises.
- (3) Automobile Insurance: To include all vehicles owned, leased, hired, and non-owned vehicles limits of not less than \$100,000 per person; \$200,000 per accident; and \$100,000 property damage, with contractual liability coverage for all work performed under this Contract.
- (4) Professional Liability Insurance: Minimum \$1,000,000 per occurrence for this project with a \$1,000,000 policy term general aggregate. Coverage must be extended beyond the policy year term either by a supplemental extended reporting period (ERP) with as great of duration as available, with no less coverage and reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made. The City prefers all Professional Liability Insurance be written on an Occurrence Form; however, in the event that the professional liability insurance required by the Contract is written on a claims-

made basis, Consultant warrants that any retroactive date under the policy precedes the effective date of this Contract; and that either continuous coverage will be maintained for a period of two (2) years or an extended reporting period (ERP) with tail coverage will be obtained and maintained for a period of two (2) years beginning at the time work under this Contract is completed.

B. WAIVER OF SUBROGATION

All required insurance policies (except professional liability) are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or through other means, agree to waive all rights of subrogation against the City, its officers, officials, employees, and the City's insurance carriers, for losses paid under the terms of these policies that arise from the contractual relationship or work performed by the Consultant for the City. It is the Consultant's responsibility to notify its insurance company of the waiver of subrogation and request written authorization or the proper endorsement. Additionally, the Consultant, its officers, officials, agents, employees, volunteers, and any sub-consultants, agree to waive all rights of subrogation against the City and its insurance carriers for any losses paid, sustained, or incurred, but not covered by insurance, that arise from the contractual relationship or work performed. This waiver also applies to any deductibles or self-insured retentions for which the Consultant or its agents may be responsible.

C. POLICY FORM

- (1) All policies required by this Contract, with the exception of Professional Liability and Workers Compensation, or unless Risk Management through the City's Purchasing Office gives specific approval, are to be written on an occurrence basis and must name the City of North Port, Florida, its Commissioners, officers, agents, and employees, as additional insureds as their interest may appear under this Contract. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the City's Purchasing Office. All Claims Made Policies contributing to the satisfaction of the insurance requirements in this Contract must have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, Consultant agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
- (2) Insurance requirements itemized in this Contract and required of Consultant, must be provided by or on behalf of all sub-consultants to cover their operations performed under this Contract. Consultant must be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to sub-consultants.
- (3) Each insurance policy required by this Contract must:
 - a. Apply separately to each insured against whom a claim is made, and suit is brought, except with respect to limits of the insurer's liability.
 - b. Be endorsed to state that coverage must not be suspended, voided, or cancelled by either party except after notice is delivered in accordance with the policy provisions. Consultant

is to notify the City's Purchasing Office by written notice via certified mail, return receipt requested.

- (4) The City must retain the right to review, at any time, coverage, form, and amount of insurance.
- (5) **The procuring of required policies of insurance must not be construed to limit CONSULTANT'S liability nor to fulfill the indemnification provisions and requirements of this Contract. The extent of CONSULTANT'S liability for indemnity of the CITY must not be limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between CONSULTANT and its carrier.**
- (6) Consultant must be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Contract and must be solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the City is an insured under the policy. Consultant's insurance is considered primary for any loss, regardless of any insurance maintained by the City. Consultant is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions) or any loss or portion of any loss that is not covered by any available insurance policy.
- (7) All certificates of insurance must be on file with and approved by the City before commencement of any work under this Contract. All certificates of insurance required herein must be accompanied by a copy of the additionally insured documents/endorsements (CG 20101185 or combination of CG 2010370704 and CG 20370704, or equivalent). Certificates of insurance evidencing Claims Made or Occurrences form coverage and conditions to this Contract, as well as the Contract number and description of work, are to be furnished to the City's Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates must be received by the City's Purchasing Office before Consultant will be allowed to commence or continue work. The Certificate of insurance issued by the underwriting department of the insurance carrier must certify compliance with the insurance requirements provided herein.
- (8) Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Contract must be provided to Consultant's insurer(s) and the City's Purchasing Office as soon as practicable after notice to the insured.

5. RESPONSIBILITY OF CONSULTANT

- A. Consultant must be responsible for the professional quality, technical accuracy, and the coordination of all reports, designs, specifications, other documents and data used or produced by or at the behest of Consultant under this Contract. Consultant must, without additional compensation, correct or revise any errors or deficiencies in its reports, designs, specifications, other documents, and data.

- B. If Consultant is comprised of more than one legal entity, each entity must be jointly and severally liable.
 - C. Consultant warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for Consultant), to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of this Contract.
 - D. Consultant must perform its services in accordance with generally accepted industry standards and practices customarily utilized by competent consultant firms in effect at the time Consultant's services are rendered. Consultant covenants and agrees that it and its employees must be bound by the standards of conduct in Florida Statutes, Section 112.313, as it relates to work performed under this Contract. Consultant agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.
 - E. Consultant must comply with all federal, state, and local laws, regulations, and ordinances applicable to the work or payment for work thereof. The City of North Port, Florida, does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Consultant must not administer this Contract in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.
 - F. Consultant must maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Contract which must be available and accessible at Consultant's offices for inspection, audit, and copying during normal business hours by the City, or any of its authorized representatives. Such records must be retained for a minimum of three (3) years after completion of the services.
 - G. Consultant must comply with the special conditions for Community Development Block Grant (CDBG) as attached in Exhibit D. To the extent that the terms of this Contract conflict with the special conditions for CDBG, the special conditions for CDBG will control.
6. **PUBLIC RECORDS LAW:** In accordance with Florida Statutes, Section 119.0701, Consultant must comply with all public records laws, and must specifically:
- A. Keep and maintain public records required by the City to perform the service.
 - (1) The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies.

(See <http://dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
 - (2) "Public records" means and includes those items specified in Florida Statutes, Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers,

letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made, or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Consultant's records under this Contract include but are not limited to, supplier/subcontractor/subconsultant invoices and contracts, project documents, meeting notes, e-mails and all other documentation generated during this Contract.

- B. Upon request from the City's custodian of public records, provide the City, at no cost, 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 for by law. All records kept electronically must be provided to the City, upon request from the City's custodian of public records, in a format compatible with the information technology systems of the City.
- C. Ensure that project 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 this Contract term and, if Consultant does not transfer the records to the City following completion of this Contract, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.
- D. Upon completion of this Contract, transfer, at no cost, to the City all public records in Consultant's possession or keep and maintain public records required by the City to perform the service. If Consultant transfers all public records to the City upon completion of this Contract, Consultant must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon the completion of this Contract, Consultant must meet all applicable requirements for retaining public records.
- E. **IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, 941.429.7063 OR HOTLINE 941.429.7270; E-MAIL: Publicrecordsrequest@northportfl.gov.**

7. OWNERSHIP AND USE OF WORK PRODUCT

- A. It is understood and agreed that the Consultant must deliver to the City the Consultant's work product, including reports and other documents and data developed in connection with its services; this work product will become the City's property upon receipt. The Consultant hereby assigns all its copyright and other proprietary interests in the work product to the City.
- B. The Consultant may not use any of the work product on any non-City project unless the City agrees in writing. The City's reuse of the work product on other projects will be at the City's risk.

- C. The City records all land related changes and/or activities in its corporate based Geographic Information System (GIS). The Consultant must provide the City at no additional cost all GIS or Computer Aided Drafting (CAD) formatted data created or modified in support of each project, as a project deliverable for inclusion into the City's GIS. GIS data files submitted in support of a project must adhere to City GIS standards, and CAD drawings submitted must adhere to City CAD standards as provided in writing by the Administrative Agent.
- D. Computer systems and databases used for providing the documents necessary to this Contract must be compatible with existing City systems. The Administrative Agent will advise the Consultant of the systems and databases in writing or in the Notice to Proceed, and upon any changes thereafter.

8. CONSULTANT PERFORMANCE

- A. The timely performance and completion of the required services is vitally important. Consultant must assign an Administrative Agent, together with such other personnel as are necessary for timely delivery of services pursuant to the requirements of this Contract. Consultant's personnel assigned to perform the services of this Contract must comply with the information presented in the professional services response proposal made a part hereof by reference. Consultant must ensure that all key personnel, support personnel, and other agents are fully qualified and capable to perform their assigned tasks. Any change or substitution to Consultant's key personnel must receive the City's Administrative Agent's written approval before any changes or substitution can become effective.
- B. The services to be rendered by Consultant must commence within one (1) calendar week of Consultant's receipt of written Notice to Proceed from the City.
- C. Consultant specifically agrees that all work performed under the terms and conditions of this Contract must be completed within the time limits as set forth, subject only to delays caused through no fault of Consultant or the City.
- D. Consultant agrees to provide to the City's Administrative Agent, monthly written progress reports concerning the status of the work. The City's Administrative Agent may determine the format for this progress report. The City must be advised at the City's request, and in writing, as to the status of work to be performed by Consultant.
- E. In the event unreasonable delays occur on the part of the City or regulatory agencies as to the approval of any plans, permits, reports or other documents submitted by Consultant which delay the Project Schedule completion date, the City must not unreasonably withhold the granting of an extension of the Project Schedule time limitation equal to the aforementioned delay.

9. CITY OBLIGATIONS

- A. The City's Administrative Agent is designated to serve as project coordinator and to do all things necessary to properly administer the terms and conditions of this Contract. The responsibility of the City's Administrative Agent will include:
- (1) Examination of all reports, sketches, drawings, estimates, proposals, and other documents presented by Consultant, and render in writing, decisions pertaining thereto within a reasonable time.
 - (2) Transmission of instructions, receipt of information, interpretation and definition of the City's policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Contract.
 - (3) Review for approval or rejection all Consultant's documents and payment requests.
- B. The City will, upon request, furnish Consultant with all existing data, plans, studies, and other information in the City's possession which may be useful in connection with the work of this Project, all of which must be and remain the property of the City and must be returned to the City's Administrative Agent upon completion of the services to be performed by Consultant.
- C. The City's Administrative Agent will conduct periodic reviews of the work of Consultant necessary for the completion of Consultant's services during the period of this Contract, and may make other City personnel available, where required and necessary to assist Consultant. The availability and necessity of additional City personnel to assist Consultant will be determined solely within the discretion of the City. The City's technical obligations to this Project, if any, are stated in Specific Authorizations and Work Authorizations.
- D. The City must not provide any services to Consultant in connection with any claim brought on behalf of or against Consultant.

10. TERMINATION

- A. City's Termination With or Without Cause. The City Manager or designee may terminate any Work and this Contract, or both, with or without cause, in whole or in part, whenever the City Manager or designee determines that termination is in the City's best interest.
- (1) The City may effectuate termination by delivering to the Consultant a written notice of termination at least thirty (30) calendar days before the date of termination, specifying the extent to which performance of the Work is terminated and the date upon which the termination becomes effective.
 - (2) Except as otherwise directed in the notice, the Consultant must: (i) cease all work on the date of receipt of the notice of termination or other date specified in the notice; (ii) place no further orders or subcontracts for materials, services, or facilities except as necessary for completion

of the portion of the Work not terminated; (iii) terminate all vendors and subcontracts; and (iv) settle all outstanding liabilities and claims.

- (3) The Consultant must deliver to the City all documents (including but not limited to reports, designs, specifications, and all other data) prepared or obtained by the Consultant in connection with its services.
 - (4) The City will pay the Consultant for the portion of the terminated Work completed prior to delivery of the notice of termination. The City has no obligation under any circumstance to make any payment to the Consultant for terminated Work that has not been performed or that is performed after delivery of the notice of termination.
- B. Non-Appropriation: The parties acknowledge and agree that the obligations of the City to fulfill financial obligations of any kind pursuant to any and all provisions of this Contract, or any subsequent contract entered into pursuant to this Contract or referenced herein to which City is a party, are subject to the provisions of Florida Statutes, Section 166.241, regardless of whether a particular obligation has been expressly so conditioned. Since funds are appropriated annually by the City Commission on a fiscal year basis, the City's legal liability for the payment of any costs must not arise unless and until appropriations for such costs are approved for the applicable fiscal year by the City Commission. No liability must arise, if a request for such appropriations is excluded from the budget approved by the City Commission. Notwithstanding the foregoing, any commissioner, officer, employee, director, member or other natural person or agent of City must not have any personal liability in connection with the breach of the provisions of this section or in the event of a default by City under this section. This Contract must not constitute an indebtedness of City, or an obligation for which the City is obligated to levy or pledge any form of taxation or for which City has levied or pledged any form of taxation. It is expressly understood by the parties that funding for any subsequent fiscal year of the Contract is contingent upon appropriation of monies by the City Commission. If funds are not available or appropriated, the City reserves the right to terminate the Contract. The City will pay any outstanding invoices for work completed by the Consultant prior to such termination.
- C. Termination for Abandonment. If the Consultant abandons performance under this Contract, the City Manager or designee may terminate this Contract upon three (3) calendar days' written notice to the Consultant indicating the intention to do so. The written notice must state the evidence indicating the Consultant's abandonment.
- D. Termination for Non-Civility. The Consultant agrees that its employees and agents will communicate with City employees and members of the public in a civil manner. Any aspect of the Consultant's performance, including complaints received from City employees or members of the public, may cause the City to terminate this Contract in accordance with the provisions contained herein.
- E. Consultant's Termination. The Consultant may terminate this Contract only in the event the City fails to pay the Consultant's properly documented and submitted payment request within ninety

(90) calendar days of the Administrative Agent's approval, or if the City suspends a project for longer than ninety (90) calendar days.

- F. Court Proceedings. The City Manager or designee reserves the right to terminate this Contract immediately in the event the Consultant is placed in either voluntary or involuntary bankruptcy, a receiver is appointed for the Consultant, or an assignment is made for the benefit of creditors.
- G. Breach. In the event the Consultant is in breach of this Contract, the City must provide written notice of the breach and the Consultant will have ten (10) calendar days to cure, calculated from the date the Consultant receives the notice. If the Consultant fails to cure within the ten (10) calendar days, the City Manager or designee may immediately terminate this Contract and/or refuse to make any additional payment, in whole or in part, and may demand the return of a portion or the entire amount previously paid to the Consultant due to:
- (1) The quality of a portion or all the Consultant's Work not being in accordance with the requirements of this Contract;
 - (2) The quantity of the Consultant's Work not being as represented in the Consultant's payment request, or otherwise;
 - (3) The Consultant's rate of progress is, in the City's reasonable opinion, whether Substantial Completion, Final Completion, or both, inexcusably delayed;
 - (4) The Consultant's failure to pay the Consultant's project related obligations, including but not limited to subcontractors, subconsultants, laborers, materialmen, equipment, and other suppliers;
 - (5) Claims made, or likely to be made, against the City or its property;
 - (6) Loss caused by the Consultant;
 - (7) The Consultant's failure or refusal to perform any of its obligations to the City, after written notice and a reasonable opportunity to cure, as set forth above; or
 - (8) Violation of any local, state, or federal law in the performance of this Contract constitutes a breach of this Contract.
- H. Waiver. Any delay or failure to enforce any breach of this Contract by either the City or the Consultant will not be binding upon the waiving party unless the waiver is in writing. In the event of a written waiver, the waiver will not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the

existence of a default or breach must not operate or be construed to operate as a waiver of any subsequent default or breach.

I. E-Verify Violation.

- (1) If the City has a good faith belief that the Consultant has knowingly violated Florida Statutes Section 448.09(1), the City may immediately terminate this Contract.
- (2) If the City has a good faith belief that a subcontractor/subconsultant has knowingly violated Florida Statutes Section 448.09(1), but the Consultant has otherwise complied, then the City must without delay notify the Consultant and order the Consultant to immediately terminate its contract with the subcontractor/subconsultant.
- (3) The Consultant must comply with Florida Statutes Section 448.095(2) for any challenge to termination of this Contract under this Section.

J. Remedies. In the event of a default or breach of this Contract terms, the City may avail itself of every remedy given to it now existing at law or in equity, and every remedy must be in addition to every other remedy given or otherwise existing and may be exercised from time to time and as often and in the order as the City deems expedient. The exercise, or the beginning of the exercise, of one remedy must not be deemed to be a waiver of the right to exercise, at the same time or thereafter, any other remedy. The City's rights and remedies set forth in this Contract are not exclusive and are in addition to any other rights and remedies available to it in law or in equity.

K. Other Requirements. Consultant must comply with the special conditions for Community Development Block Grant (CDBG) as attached in Exhibit D. To the extent that the terms of this Contract conflict with the special condition for CDBG, the special conditions will control.

11. INDEPENDENT CONTRACTOR

- A. The relationship between the Consultant and the City is that of an independent contractor. Nothing contained herein will be deemed or construed as creating the relationship of employer-employee, principal-agent, partnership, or joint venture between the parties. It is understood and agreed that no provision contained herein, or any acts of the parties, will be deemed to create any relationship between them other than that as detailed herein. The Consultant retains sole and absolute discretion and judgment in the manner and means of carrying out the services, within the established rules and regulations of the City.
- B. The Consultant is not entitled to any salary or benefits other than the compensation described in Section 2 of this Contract. The Consultant must provide, at their sole expense, all supplies and materials needed for the services that are not otherwise provided by the City.

12. WAIVER

Any delay or failure to enforce any breach of this Contract by either City or Consultant must not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver must not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach must not operate or be construed to operate as a waiver of any subsequent default or breach.

13. NO HIRE

CONSULTANT must not hire any City employee associated with this project throughout the duration of this Contract and for a period of one (1) year after completion.

14. NOTICES

Except as specified elsewhere in this Contract, all notices provided for in this Contract must be in writing and transmitted by FedEx, UPS, or by certified mail, return receipt requested to the following. A party may update its notice information by providing written notice to the other party.

THE CITY'S ADMINISTRATIVE AGENT:

Mike Acosta, Utilities
City of North Port
6644 West Price Blvd.
North Port, FL 34291
TEL: 941.240.8013
Email: macosta@northportfl.gov

WITH COPIES OF NOTICES TO:

City of North Port, Florida
City Attorney's Office
4970 City Hall Boulevard
North Port, FL 34286
EMAIL: northportcityattorney@northportfl.gov

CONSULTANT'S REPRESENTATIVE:

Contact name: Barton Jones
Company name: CHA Consulting, Inc.
Street address: 3507 East Frontage Road; Suite 180
Tampa, FL 33607
TEL: 813.819.0563
EMAIL: bjones@chacompanies.com

WITH COPIES OF NOTICES TO:

CHA Legal Department
CHA Consulting, Inc.
3 Winner's Circle
Albany, NY 12205
TEL: 518.453.4500
EMAIL: mplatt@chacompanies.com

15. CONFLICTS

In the event of any conflict between the provisions of this Contract and RFP No. 2023-10 or Consultant's response, which are made a part hereof by reference, this Contract must control.

- 16. E-VERIFY SYSTEM:** Upon entering into this Contract, the Consultant must be registered with and must continue during the term of this Contract to use the Department of Homeland Security E-Verify System as required by Section 448.095, Fla. Stat., Employment Eligibility, including but not limited to, verifying the work authorization status of all newly hired employees, and requiring all subcontractors/subconsultants to provide an affidavit attesting that the subcontractor/subconsultant does not employ, contract with, or subcontract with, an unauthorized alien. The Consultant must maintain a copy of such affidavit for the duration of the contract.

17. SCRUTINIZED COMPANIES

- A. As required by section 287.135(5), Florida Statutes, for contracts of \$1,000,000.00 or less, when submitting a bid or proposal, and prior to entering into a contract with the City, every person or entity must certify on a form provide by the City, that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel.
- B. As required by section 287.135(5), Florida Statutes, for contracts of \$1,000,000.00 or more, when submitting a bid or proposal, and prior to entering into a contract with the City, every person or entity must certify on a form provided by the City, that all of the following are true:
- (1) It is not on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel; and
 - (2) It is not on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector list, created pursuant to section 215.473, Florida Statutes; and
 - (3) It is not engaged in business operations in Cuba or Syria.

C. PENALTY:

- (1) If a false certification is submitted or the person or entity has been placed on one of the above-noted Lists of Scrutinized Companies or has engaged in business operations in Cuba or

Syria, the person or entity will be in breach of this Contract terms and the City may terminate the Contract.

- (2) A person or entity that has been found to have provided a false certification may be subject to a civil penalty equal to the greater of \$2 million or twice the amount of the Contract, plus all reasonable attorney's fees and costs, including any costs for investigations that led to the finding of the false certification; and
- (3) A person or entity that has been found to have provided a false certification must be ineligible to bid on any contract with the City for three (3) years after the date the City determined that a false certification has been submitted.

18. FORCE MAJUERE

A. Should performance of any obligation created under this Contract become illegal or impossible by reason of:

- (1) A strike or work stoppage, unless caused by a negligent act or omission of either Party;
- (2) An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
- (3) An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;
- (4) A declared emergency of the federal, state, or local government; or
- (5) Any other like event that is beyond the reasonable control of the non-performing party;

Then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided that:

- (6) The non-performing party provides written notice within five (5) days of the event of *force majeure*, describing the event in sufficient detail, including but not limited to: the nature of the occurrence, a good faith estimate of the duration of the delay, proof of how the event has precluded the non-performing party from performing, and the means and methods for correcting the delay; and continues to furnish timely reports of all actions required for it to commence or resume performance of its obligations under this Contract;
- (7) The excuse of performance is no greater in scope or duration than required by the event of *force majeure*;
- (8) No obligations of either party that arose before the *force majeure* are excused as a result of the event of *force majeure*; and
- (9) The non-performing party uses all reasonable diligence to remedy its inability to perform.

- B. Economic hardship of a party does not constitute an event of *force majeure*. A party must not be excused from performance due to forces that it could have reasonably prevented, removed, or remediated prior to, during, or immediately after their occurrence.
- C. The non-performing party's affected obligations under this Contract must be temporarily suspended during, but not longer than, the continuance of the event of *force majeure* and a reasonable time thereafter as may be required to commence or resume performance of its obligations. Notwithstanding the above, performance must not be excused under this section for a period exceeding two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term.
- D. The term of this Contract will be extended by a period equal to that during which the non-performing party's performance is suspended under this section.

19. MISCELLANEOUS

- A. Authority to Execute Contract. The signature by any person to this Contract must be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act.
- B. Binding Effect/Counterparts. By the signatures affixed hereto, the parties intend to be bound by the terms and conditions hereof. This Contract is binding upon and must inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns. It may be signed in counterparts.
- C. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Contract. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Contract are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida, and the United States District Court for the Middle District of Florida.
- D. No Agency. Nothing contained in this Contract must be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that any provision contained in this Contract, or any acts of the Parties must not be deemed to create any relationship between them other than that as detailed herein.
- E. Severability. If any court holds that any provision of this Contract to be illegal, invalid, or unenforceable, the remaining provisions must be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition, or covenant must not be construed as a waiver of a subsequent breach by the other party.
- F. Headings. The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Contract and do not affect its construction.
- G. Complete Contract. This Contract incorporates and includes all prior negotiations, correspondence, contracts, or understandings between the parties, and the parties agree that

there are no commitments, agreements or understandings concerning the subject matter of this Contract that are not contained in this document. This Contract supersedes all other contracts between the parties, whether oral or written, with respect to the subject matter.

- H. Amendment. No amendment, change, or addendum to this Contract is enforceable unless agreed to in writing by both parties and incorporated into this Contract. Any amendments changing City's financial obligations under this Contract must require approval by the City Commission. The City Commission hereby authorizes the City Manager or City Manager's authorized designee to approve and execute all contract amendments on behalf of City that do not change City's financial obligations under this Contract.
- I. Assignment. The Consultant must not assign this Contract or any right or responsibility herein unless with the written consent of the City.
- J. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Consultant must not administer this Contract in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

IN WITNESS WHEREOF, the parties have executed this Contract as follows.

CONSULTANT
CHA Consulting, Inc.



By: [Signature] (Signature)
General Counsel & EVP (Title)

ACKNOWLEDGEMENT

New York
STATE OF [Redacted]
COUNTY OF Albany

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 31st day of October 2023, by Michael A. Platt (name) as General Counsel & EVP (title) for CHA Consulting, Inc. (entity).

[Signature]
Notary Public

Personally Known X OR Produced Identification _____
Type of Identification Produced _____

JONATHAN HOWARD BARD
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02BA6359467
Qualified in Dutchess County
Commission Expires May, 30, 2025

Approved by the City Commission of the City of North Port, Florida on _____
2023.

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY

**CITY OF NORTH PORT
PROFESSIONAL CONSTRUCTION, ENGINEERING, REQUEST, AND INSPECTION
(CEI) SERVICES FOR DIESEL BYPASS PUMP INSTALLATION AND INFLOW AND
INFILTRATION MITIGATION
CONTRACT FOR NORTH PORT UTILITIES
MARCH 29, 2023**

2023 DIESEL BYPASS PUMP PROJECTS

SCOPE OF SERVICES

A. INTRODUCTION

The City of North Port Utilities Department (NPU) owns and operates an extensive wastewater collection system within the City of North Port. NPU has received two Community Development Block Grants (CDBG), one for the installation of eight diesel bypass pumps at lift stations and one for inflow and infiltration (I&I) mitigation projects. The City anticipates that it will use existing City Standard Specifications and details for both projects including the bidding documents.

The installation of eight bypass diesel pumps and inflow and infiltration mitigation projects are expected to be bid in 2023 with construction anticipated shortly thereafter. It is anticipated that the construction time will be approximately six months for the bypass pumps installation and eight months for the inflow and infiltration mitigation project. This scope of services will focus on the eight bypass diesel pumps.

NPU was awarded \$650,440 of CDBG Mitigation Funds (CDBG-MIT) funds under Department of Economic (DEO) Agreement No. IR027 to install permanent bypass pumps at Lift Stations 23, 25, 30, 37, 38, 39, 43 and 63. During Hurricane Irma, 90% of NPU's lift stations were inoperable and required manual operation by NPU staff. Two shifts of staff were required to work 12-hour days to manually operate the pumps at the effected lift stations. Eventually, the NPU was required to hire a contractor to assist with the manual pumping due to the workload strain on the NPU staff.

The project will include the purchase and installation of bypass pumps for the eight lift stations noted above, servicing low-and-moderate income populations. The permanent pumps will keep sewer service functional during adverse weather events and prevent or mitigate potential sanitary sewer overflows (SSO)s. This ensures the continued health and safety of the City's residents.

This project will benefit 6,423 households. 58% of these households are considered low-and-moderate income.

The purpose of this Work Assignment is for CHA Consulting, Inc. (CHA) to complete engineering services including bidding assistance, construction, engineering, and inspection services related to the Diesel Bypass Pump Installation Project.

B. SCOPE OF SERVICES

CHA's Scope of Services will include the following services, by appropriate Task:

TASK 1 – PROJECT MANAGEMENT AND DATA COLLECTION

1.1 Administration and Invoicing

Project Coordination: CHA will prioritize efforts scheduling and assigning personnel, and other necessary resources. The effort in this task also includes conference calls, emails and discussions with NPU necessary to coordinate, plan, and manage the project.

Develop and submit monthly invoices with status reports and updated schedule.

1.2 Kick-off Meeting and Data Collection

CHA will prepare for and lead a kick-off meeting with NPU. CHA will prepare an agenda for the meeting and provide a meeting summary.

CHA will prepare and submit a data request list to NPU. NPU will provide data to CHA in support of the project including:

- Record drawings for the existing lift stations

Deliverables

- Kickoff meeting summary – one (1) electronic pdf file
- Data request list – one (1) electronic pdf file
- Monthly Progress Reporting

TASK 2 – LIMITED DESIGN SERVICES

NPU has already selected the eight (8) lift stations to receive permanent diesel pumps and the gravity main areas to be lined with CIPP. This preliminary effort was completed as part of the grant funding applications. The diesel pump and Cured-in-Place-Pipe (CIPP) lining will be based on NPU's existing standard details and specifications.

2.1 Limited Design Services

CHA will complete limited design services for installation of diesel pumps at each of the eight lift stations. CHA will meet with the selected diesel pump contractor (if selection is complete) and NPU and review each lift station. CHA will determine a mechanical piping plan for each location based on the NPU Standard Specifications and details. CHA will complete a limit sketch for each lift station to install the mechanical piping based on the site visit and Standard Specifications and details. The sketches will be used by the contractor for simplistic connection locations. The contractor will be responsible for the detailed mechanical piping measuring and fabrication to be the constraints of each site.

Deliverables

- Lift station mechanical piping sketches, one per each site, eight total – one (1) electronic pdf file

TASK 3 – FUNDING DOCUMENTATION

4.1 Funding Documentation Support

To stay in compliance with the DEO funding, there are documents required to be submitted to DEO on a recurring basis as outline below. CHA will assist NPU in preparing the required DEO recurring documents and closeout documents.

- A. Provide the following documentation to DEO within ten (10) calendar days after the end of each month:
 - A revised detail report measuring the actual cost versus the projected cost;
 - An updated Activity Work Plan, which documents any changes to the projected progress along with justification for the revision.
- B. Develop and submit to DEO a monthly revised detailed timeline for implementation consistent with the milestones outlined in the Infrastructure Program Guidelines and report actual progress against the projected progress ten (10) calendar days after the end of each month.
- C. Provide the following information on a quarterly basis within ten (10) calendar days of the end of each quarter:
 - Submit updated organization chart on a quarterly basis with quarterly report;
 - If staffing changes, there must be a submittal stating the names, job descriptions, on the monthly report deadline;
 - A progress report documenting the following information:
 - Accomplishments within the past quarter;
 - Issues or risks that have been faced with resolutions; and
 - Projected activities to be completed within the following quarter.
- D. Close out report will be no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.
- E. Subrecipient shall provide pictures to document progress and completion of tasks and final project.

4.2 Funding Reimbursement Submittals

DEO will reimburse NPU when invoice and submitted and approved by NPU for the approved work. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State of Florida (State) funds. CHA will assist NPU in preparing invoice submittals to DEO. The invoice requirements are as follows:

- A. NPU shall provide one invoice per month for services rendered during the applicable period of time. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
- B. The following documents shall be submitted with the itemized invoice:
- A cover letter signed by Subrecipient's Grant Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components of the funding agreements, (3) have been paid; and (4) were incurred during this Agreement, which NPU will sign.
 - The invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date.
 - A certification by a licensed professional using American Institute of Architects (AIA) forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete.
 - Photographs of the project in progress and completed work, which will be provided by CHA.
 - A copy of all supporting documentation for vendor payments, which NPU will provide.
 - A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from NPU that the State deems necessary to verify that the services have been rendered under this Agreement, which NPU will provide.
- C. Subrecipient's invoice and all documentation necessary to support payment requests must be submitted into DEO's Subrecipient Enterprise Resource Application (SERA).

4.3 Funding Agreement Extension

CHA will assist NPU with preparing one (1) contract extension with DEO. CHA will request an extension from DEO in writing no later than thirty (30) business days prior to the deadline - deadlines will not be extended outside of the term of the agreement with DEO.

Deliverable

- Monthly DEO package including recurring updates and reimbursement invoice – one (1) electronic pdf file, up to four (4) monthly DEO packages
- DEO closeout report – one (1) electronic pdf file

TASK 4 – BIDDING PHASE

5.1 Bidding Assistance

CHA will provide limited services during the bid phase of the project. It is anticipated that the project will bid with an advertisement period of up to 30 days. It is understood that NPU will administer the bidding process, including advertisement, reproduction and dissemination of bid documents, maintaining a plan-holders list, scheduling and coordinating a pre-bid meeting, receiving bidder questions, assembling and disseminating addenda, and hosting the pre-bid meeting. Specific services to be provided by CHA during bidding include:

- Attend the Pre-Bid Meeting. It is understood that CHA staff involvement at the pre-bid meeting will be limited to assisting NPU in describing the character of the work being contemplated, and noting questions posed by potential bidders at the meeting.
- Prepare written responses to questions from Contractors that arise during the bid phase, including those raised at the pre-bid meeting.
- Assist NPU in preparing technical content for up to three (3) addenda. This may include preparing clarifications of the contract documents.
- Review the documents submitted by the apparent low bidder and provide a letter statement indicating whether the apparent low bidder meets the requirements of the contract documents as related to the experience and qualifications of the Contractor to perform the work required. It is understood that NPU staff will perform legal, financial, and administrative reviews of the bids received.

TASK 5 – CONSTRUCTION SERVICES

CHA will perform construction engineering and inspection (CEI) services during the construction phase of the project. By performing these services, CHA's primary role will be to confirm that the observed work conforms with the contract documents. CHA shall not have responsibility to direct the Contractor's work with respect to the Contractor's means, methods, techniques, sequences, or procedures of construction. CHA also shall not have responsibility to develop or direct the Contractor's safety programs. Construction activities are anticipated to last 6 months with 4 active months.

6.1 Pre-Construction Conference

CHA will participate in one (1) pre-construction conferences, with the Contractor and NPU representatives to discuss the project, planned work, issues that may be encountered in the field, communication, safety, and other topics, as necessary and as requested by NPU.

6.2 RPR Inspection Services

CHA will provide Resident Project Representative (RPR) inspection services for construction activities, including installation, testing, and final restoration. Services are anticipated to include periodic site visits in order to observe the progressing work, track quantities, and confirm that the work is being performed in general conformance to NPU's Standard Specifications and details. It is anticipated that two (2) months of full time 40-hour per week RPR services will be provided. It is assumed that both the Diesel

Bypass Pumps and the I&I Mitigation projects will overlay and that the RPR will be able to observe both sites during the same week.

6.3 Monthly Coordination Meetings – CHA will remotely participate in monthly meetings with the Contractors and NPU representatives to discuss status of the project, planned work, issues encountered in the field, and other topics, as necessary and as requested by NPU.

6.4 Shop Drawings/Material Conformance

CHA will coordinate with the Contractor to facilitate timely submittal and review of shop drawings for installed materials for NPU's records. CHA will review identified material to confirm compliance with the design documents. CHA will maintain a shop drawing log. It is anticipated that up to fifteen (15) shop drawings will be reviewed.

6.5 Request for Information

CHA will coordinate with the Contractor to facilitate timely Request for Information (RFI) review. CHA will maintain an RFI log. It is anticipated that up to three (3) RFIs will be reviewed.

6.6 Change Order

CHA will assist NPU with preparing change orders, reviewing the changes for scope and increases/decreases to contract price and contract time. It is anticipated that one (1) change order will be reviewed for each contract.

6.7 Review of Contractors Applications for Payment

CHA will support NPU in reviewing Contractor's applications for payment. Such support will include review and preliminary approval of quantities, as-builts, material invoices, etc. prior to Contractor submittal to NPU to confirm that the appropriate payment amount is reflected on the Contractor's application for payment. It is anticipated that four pay applications will be reviewed.

6.8 Walk Throughs

CHA will conduct a substantial completion walk through following the completion of the project. During the walk-through, a punch list will be developed by CHA. CHA will conduct a final walk-through to confirm that all items have been addressed to achieve final completion.

6.9 As-Built

CHA will review contractor markups of the constructed improvements or an as-built survey (signed and sealed by a professional land surveyor in the State of Florida) furnished by the Contractor. CHA's review will be to confirm that the modifications/improvements were documented.

C. DATA OR COORDINATION ASSISTANCE TO BE PROVIDED BY THE CITY AS AVAILABLE

1. NPU will provide record drawings and utility information along the project route and surrounding areas.

D. ASSUMPTIONS

1. NPU will pay for the necessary permit review fees.
2. Construction contracts will be sequenced to allow for one full time RPR to observe both the Diesel Bypass Pumps and the I&I Mitigation projects.

E. PERFORMANCE SCHEDULE:

The service outlined above for this scope of services will be completed within 6 months from when the City receives the diesel bypass pumps. Schedule updates will be provided with each monthly invoice submittal or when a schedule change has occurred. The following table summarizes CHA's schedule for completing the investigation phase.

Activity	Duration
Task 1 – Project Administration Services	6 months
Task 2 – Limited Design Services	4 months
Task 3 – Funding Documentation	6 months
Task 4 – Bidding Assistance	2 months
Task 5 – Construction Services	6 months
Total	6 months

F. COMPENSATION TO THE CONSULTANT:

For the Scope of Services described in this work assignment NPU shall be compensated on a lump sum as shown below in accordance with the terms of the agreement.

Activity	Fee
Task 1 – Project Administration Services	\$4,800
Task 2 – Limited Design Services	\$13,260
Task 3 – Funding Documentation	\$13,030
Task 4 – Bidding Assistance	\$4,605
Task 5 – Construction Services	\$68,625
Total	\$104,320

**EXHIBIT B TO CONTRACT
NO. 2022-31.001
Diesel Bypass Pump
Projects City of North Port
3/16/2023**

TASK DESCRIPTION	Client Services Manager		Senior PM		QC Officer		Engineer III		PE III (Inspector)		Admin II		Subtotal	Subtotal Hours	Hourly Rate	Sub Consultant	TOTAL TASK COST
	Rate = \$245		Rate = \$225		Rate = \$260		Rate = \$135		Rate = \$135		Rate = \$90						
	HOURS	Cost	HOURS	Cost	HOURS	Cost	HOURS	Cost	HOURS	Cost	HOURS	Cost	Cost	Cost			
TASK 1 - Project Administration Services	6	\$1,470	10	\$2,250	0	\$0	4	\$540	0	\$0	6	\$540	\$4,800	26	\$184.62	\$0	\$4,800
1 1 - Project Administration	3	\$735	6	\$1,350		\$0		\$0		\$0	6	\$540	\$2,625	15	\$175.00	\$0	\$2,625
1 2 - Kick-off Meeting and Data Collection	3	\$735	4	\$900		\$0	4	\$540		\$0		\$0	\$2,175	11	\$197.73	\$0	\$2,175
TASK 2 - Limited Design Services	0	\$0	28	\$6,300	6	\$1,560	40	\$5,400	0	\$0	0	\$0	\$13,260	74	\$179.19	\$0	\$13,260
2 1 - Limited Design Documents		\$0	28	\$6,300	6	\$1,560	40	\$5,400		\$0		\$0	\$13,260	74	\$179.19	\$0	\$13,260
TASK 3 - Funding Documentation	0	\$0	24	\$5,400	2	\$520	46	\$6,210	0	\$0	10	\$900	\$13,030	82	\$158.90	\$0	\$13,030
3 1 - Funding Documentation Support		\$0	12	\$2,700	1	\$260	24	\$3,240		\$0	4	\$360	\$6,560	41	\$160.00	\$0	\$6,560
3 2 - Funding Reimbursement Submittals		\$0	8	\$1,800	1	\$260	16	\$2,160		\$0	4	\$360	\$4,580	29	\$157.93	\$0	\$4,580
3 3 - Funding Agreement Extension		\$0	4	\$900		\$0	6	\$810		\$0	2	\$180	\$1,890	12	\$157.50	\$0	\$1,890
TASK 4 - Bidding Assistance	3	\$735	8	\$1,800	0	\$0	14	\$1,890	0	\$0	2	\$180	\$4,605	27	\$170.56	\$0	\$4,605
4 1 - Bidding Assistance	3	\$735	8	\$1,800		\$0	14	\$1,890		\$0	2	\$180	\$4,605	27	\$170.56	\$0	\$4,605
TASK 5 - Construction Services	0	\$0	52	\$11,700	0	\$0	72	\$9,720	347	\$46,845	4	\$360	\$68,625	475	\$144.47	\$0	\$68,625
5 1 - Pre-Construction Conference		\$0	3	\$675		\$0		\$0	4	\$540		\$0	\$1,215	7	\$173.57	\$0	\$1,215
5 2 - RPR Inspection Services		\$0	8	\$1,800		\$0	12	\$1,620	304	\$41,040		\$0	\$44,460	324	\$137.22	\$0	\$44,460
5 3 - Monthly Coordination Meetings		\$0	6	\$1,350		\$0	6	\$810		\$0		\$0	\$2,160	12	\$180.00	\$0	\$2,160
5 4 - Shop Drawings/Material Conformance		\$0	15	\$3,375		\$0	30	\$4,050		\$0	4	\$360	\$7,785	49	\$158.88	\$0	\$7,785
5 5 - Request for Information (RFI)		\$0	4	\$900		\$0	8	\$1,080	5	\$675		\$0	\$2,655	17	\$156.18	\$0	\$2,655
5 6 - Change Order		\$0	2	\$450		\$0	4	\$540	2	\$270		\$0	\$1,260	8	\$157.50	\$0	\$1,260
5 7 - Review of Contractors Applications for Payment		\$0	4	\$900		\$0	4	\$540	16	\$2,160		\$0	\$3,600	24	\$150.00	\$0	\$3,600
5 8 - Walk Throughs		\$0	6	\$1,350		\$0		\$0	8	\$1,080		\$0	\$2,430	14	\$173.57	\$0	\$2,430
5 9 - As-Built		\$0	4	\$900		\$0	8	\$1,080	8	\$1,080		\$0	\$3,060	20	\$153.00	\$0	\$3,060
BUDGET TOTALS	9	\$2,205	122	\$27,450	8	\$2,080	176	\$23,760	347	\$46,845	22	\$1,980	\$104,320	684		\$0	\$104,320
Percent Breakdown	2%		26%		2%		23%		45%		2%			100%			
TOTAL SUM FEE COMPUTATIONS																BUDGET	
Labor																\$104,320	
Subconsultants																\$0	
Subtotal, Labor and Subcontractors																\$104,320	
Total Fee																\$104,320	

D. ASSUMPTIONS

1. NPU will pay for the necessary permit review fees.
2. Construction contracts will be sequenced to allow for one full time RPR to observe both the Diesel Bypass Pumps and the I&I Mitigation projects.

E. PERFORMANCE SCHEDULE:

The service outlined above for this scope of services will be completed within 6 months from when the City receives the diesel bypass pumps. Schedule updates will be provided with each monthly invoice submittal or when a schedule change has occurred. The following table summarizes CHA's schedule for completing the investigation phase.

Activity	Duration
Task 1 – Project Administration Services	6 months
Task 2 – Limited Design Services	4 months
Task 3 – Funding Documentation	6 months
Task 4 – Bidding Assistance	2 months
Task 5 – Construction Services	6 months
Total	6 months

F. COMPENSATION TO THE CONSULTANT:

For the Scope of Services described in this work assignment NPU shall be compensated on a lump sum as shown below in accordance with the terms of the agreement.

Activity	Fee
Task 1 – Project Administration Services	\$4,800
Task 2 – Limited Design Services	\$13,260
Task 3 – Funding Documentation	\$13,030
Task 4 – Bidding Assistance	\$4,605
Task 5 – Construction Services	\$68,625
Total	\$104,320

Part IV.
SPECIAL CONDITIONS FOR CDBG CONTRACTS
(SAME AS ATTACHMENT A)

A. Remedies for Violation or Breach of Contract Terms

All claims, disputes and other matters in question between the parties to this agreement, arising out of or relating to this agreement or the breach thereof, shall be resolved as provided as follows:

1. To the extent Chapter 558, F.S. is applicable, the parties expressly opt out of the requirements of Chapter 558, F.S., within the mean of §558.005(1), F.S.
2. In the event of a dispute or claim arising out of this Agreement, the parties agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the parties may enter into mediation in Sarasota County, Florida, with the parties sharing equally in the cost of such mediation.
3. In the event mediation, if attempted, is unsuccessful in resolving a dispute, the parties may proceed to litigation as set for the below.
4. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Sarasota County, Florida, or where subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens.
5. The parties agree to waive all rights to trial by jury for any litigation undertaken concerning this Agreement.
6. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.
7. Unless otherwise agreed in writing, the Consultant shall be required to continue its services and all other obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.

(All contracts over \$150,000)

B. Patent and Copyrights

The U.S. Department of Housing and Urban Development (HUD) and Sarasota County retain patent rights and copyrights on any project which involves research, developmental, experimental, or demonstration work. **(All contracts)**

C. Adherence to State Energy Conservation Plan

The successful bidder shall recognize and adhere to mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with Energy Policy and Conservation Act (Public Law 94-163). **(All contracts)**

D. Access to Records

Sarasota County, the consultant operating on behalf of Sarasota County, the State of Florida, the U.S. Department of HUD, the Comptroller General of the United States, or any of their authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of performing audit or project monitoring, and such records shall be subject to examination, copying, excerpting or transcribing. **(All contracts)**

E. Records Retention

In general, records are to be retained for 4 years from the date of submission of the grantee's fiscal year-end report in which the specific activity is reported for the last time, unless there is litigation, claims, audit, negotiation, or other actions involving the records, which has started before expiration of the 4-year period. In such cases, the records must be retained until completion of the action and resolution of all issues which arise from it or the end of the regular 4-year period, whichever is longer. **(All contracts)**

F. Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, for all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, the contractor is required to comply with 41 CFR Part 60-1.4(b), EO 11246, "Equal Employment Opportunity," (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., P339) as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity", and implementing regulations at 41 CFR Part 60 "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor". The Contractor is required to include this in all subcontracts involving federally assisted construction contracts. **(All contracts)**

G. Federal Equal Opportunity Laws

1. Certification of Non-segregated Facilities (for contracts over \$10,000)
2. Title VI, Civil Rights Act of 1964
3. Section 109 of the Housing & Community Development Act of 1974
4. Section 503 Handicapped (for contracts \$2,500 or over)
5. Age Discrimination Act of 1975
6. Section 504 of the Rehabilitation Act of 1973

H. Rights to Inventions Made Under a Contract

Contractor shall comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and any implementing regulations issued by HUD. **(All contracts)**

I. Procurement of Recovered Material

A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the

preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. **(All contracts over \$10,000)**

J. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractor is required to file the required certification for Bids over \$100,000.00. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant or other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection obtaining any Federal award. **(All contracts over \$100,000)**

K. Data Universal Numberings

All contractors participating in this project must have a Data Universal Numbering System (DUNS) number and be registered on the federal System for Award Management (SAM) at sam.gov. **(All contracts)**

L. Debarment and Suspension

A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. **(All contracts)**

M. Restriction on all Public Works Projects

No contractor, or subcontractor, of a foreign country included on the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR) may be awarded a contract or a subcontract for public works projects. Nor may any product of a country included on this list be provided under a public works project. Any offerer unable to certify compliance with this provision shall submit with its offer a written explanation fully describing the reasons for its inability to comply. **(All contracts)**

N. Drug-Free Workplace Requirements

The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Contractor is required to comply with drug-free workplace requirements in accordance with the Act and with HUD rules at 24 CFR Part 24, Sub-Part F. **(All contracts)**

O. Clean Air and Water Act

The contract must comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Violations must be reported to the Federal awarding agency and the Regional office of the Environmental Protection Agency (EPA). **(All contracts over**

\$150,000)

P. Davis-Bacon Requirements

The contractor shall comply with the Davis-Bacon Act, as amended (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the

Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. A copy of the prevailing wage rates is included in this solicitation. Any known changes to these wage rates prior to award of contract, shall be made known to offerers. In addition, contractors will be required to provide payroll information to Sarasota County on a weekly basis for verification of compliance. Sarasota County shall report all suspected or reported violations of this condition to the U.S. Department of Housing and Urban Development and/or the U.S. Department of Labor. **(All construction contracts over \$2,000)**

Q. Copeland "Anti-Kickback Act"

The contractor shall comply with the Copeland "Anti-Kickback" Act (40 USC 3145) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. Sarasota County shall report all suspected or reported violations to the U.S. Dept. of Housing and Urban Development. **(All construction contracts over \$2,000)**

R. Contract Work Hours and Safety Standards

The contractor shall comply with 40 USC 3702 and 3704 of the Contract Work Hours and Safety Standards Act as supplemented by Department of Labor regulations (29 CFR, Part 5). Under 40 USC 3702 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of forty (40) hours. Work in excess of that standard work week is permissible provided that the worker is compensated at a rate of not less than one and half times (1.5) the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. (This requirement applies to time spent on federally assisted contracts only.)

The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements not apply to the purchases of supplies or materials or articles ordinarily available on the open mark, or contracts for transportation or transmission of intelligence. **(All contracts over \$100,000)**

S. Section 3 Clause (Contracts Greater Than \$100,000)

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons (This clause is applicable only if the Community Development Block Grant funding exceeds \$100,000, and the funded activity leads to construction i.e. engineering, program management etc.)

Opportunities:

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure

that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post

4. Copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

5. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been in violation of the regulations in 24 CFR part 135.

6. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations in 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

7. Non-compliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD- assisted contracts.

8. Contractor shall complete the required Section 3 report **Form 60002**, included as Exhibit 5C of the CDBG Grant Management Handbook and submit the completed form to the city / county grant recipient with the final construction pay estimate for the project. **(All contracts over \$100,000)**

Other Information: A Section 3 *resident* is a public housing resident or resident of a metropolitan area or non-metropolitan County in which the Section 3 covered assistance is expended, and who qualifies as a low-income or very low-income person.

A Section 3 *business* concern is a business that is 51 percent or more owned by Section 3 residents, or 30 percent of employed staff are Section 3 residents, or 25 percent of subcontracts are committed to Section 3 businesses.

The numerical goals for employment are 30 percent of new hires annually, and for contracts, 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work. The recipient is responsible for notifying residents, notifying contractors and incorporating the Section 3 requirements, facilitating training and employment of residents,

awarding contracts to Section 3 businesses, assisting with compliance among contractors, documenting actions to comply and meeting the numerical goals.

Section 3 is race and gender neutral. A Section 3 resident must meet the qualifications of the position to be filled and a Section 3 business concern must have the ability to perform.

If a business qualifies as a Section 3 Business, the business owner(s) are encouraged to register as such on HUD's Section 3 Registry which can be found at:

<https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>

T. Termination

All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement, as found in RFB #2020-34.

(All contracts over \$10,000)

U. Bonding (NOT APPLICABLE TO VENDOR)

Contractor must meet the following minimum requirements:

- (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (2) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- (3) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. **(All contracts over \$150,000)**

V. Insurance

The following insurance items are required, as required by the City of North Port:

1. Worker’s Compensation – Level II Requirements
2. Commercial General Liability – Level II Requirements
3. Commercial Auto Liability – Level II Requirements
4. The City of North Port shall be named as ‘Additional Insured’

End of Special Provisions

END OF SECTION IV