

Agmt  
2

RESOLUTION NO. 2014- 370

**A RESOLUTION APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$1,247,653 BETWEEN THE CITY OF TAMPA AND CUTLER ASSOCIATES, INC., IN CONNECTION WITH CONTRACT NO. 14-C-00005; WATER-WASTEWATER OPERATIONS FACILITY RELOCATION DESIGN-BUILD; AUTHORIZING THE MAYOR OF THE CITY OF TAMPA TO EXECUTE SAME; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, via the competitive selection process in accordance with Florida Statutes Section 287.055, Consultants' Competitive Negotiation Act and consistent with Federal procurement policies, the City of Tampa (CITY) selected Cutler Associates, Inc. (FIRM) to provide Professional Engineering services in connection with Contract 14-C-00005; Water-Wastewater Operations Facility Relocation Design-Build, (PROJECT) as detailed in the Agreement for Professional Engineering services (AGREEMENT); and

**WHEREAS**, the CITY desires to enter into an agreement with the FIRM to provide certain Professional Engineering services; and

**WHEREAS**, it is in the best interest of the City of Tampa to enter into this AGREEMENT.

**NOW, THEREFORE,**

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

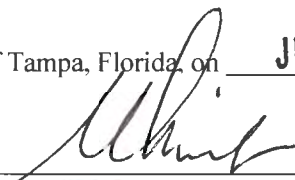
**Section 1.** That the Agreement for Professional Engineering services between the City of Tampa and Cutler Associates, Inc. in connection with Contract 14-C-00005; Water-Wastewater Operations Facility Relocation Design-Build as detailed in said AGREEMENT, a copy of which is attached hereto and made part hereof, is authorized and approved in its entirety or in substantially similar form.

**Section 2.** That the Mayor of the City of Tampa is authorized and empowered to execute, and the City Clerk to attest and affix the official seal of the City of Tampa to, said AGREEMENT on behalf of the City of Tampa.

**Section 3.** Award of a contract providing for professional engineering services in the amount of \$1,247,653 for the relocation of the Rome Avenue Water - Wastewater Operations Facilities for the Water and Wastewater Departments within the Water Renewal and Replacement Fund (\$516,580) and Wastewater Capital/Construction Fund (\$731,073).

**Section 4.** That other proper officers of the City of Tampa are authorized to do all things necessary and proper in order to carry out and make effective the provisions of this Resolution, which shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** by the City Council of the City of Tampa, Florida, on JUN 26 2014.

  
\_\_\_\_\_  
Chairman/~~Chairman Pro Tem~~, City Council

ATTEST:

  
\_\_\_\_\_  
City Clerk/~~Deputy City Clerk~~

Approved as to Legal Sufficiency by  
Justin R. Vaske, Assistant City Attorney

1/2014-29

**AGREEMENT FOR DESIGN-BUILD SERVICES**  
**Initial Design-Build**

THIS AGREEMENT, made and entered into at Tampa, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the CITY OF TAMPA, a municipal corporation of the State of Florida, hereinafter referred to as "CITY", the address of which is 315 East Kennedy Boulevard, Tampa, Florida 33602, and CUTLER ASSOCIATES, INC., a corporation existing under the laws of the State of Pennsylvania, hereinafter referred to as "FIRM", the address of which 8918 Brittany Way, Tampa, FL 33619.

**WITNESSETH:**

**WHEREAS**, the CITY desires to engage the FIRM to perform certain Professional Engineering services pertinent to such work which shall be referred to as Contract 14-C-00005; Water-Wastewater Operations Facility Relocation Design-Build "PROJECT" in accordance with this Agreement; and

**WHEREAS**, the FIRM desires to provide such Design-Build services in accordance with this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, representations and considerations to be kept, performed and paid, the parties hereto agree for themselves, their successors and assigns, as follows:

**I. GENERAL SCOPE OF THIS AGREEMENT**

A. The relationship of the FIRM to the CITY shall be that of an independent professional Design-Builder for the PROJECT; and the FIRM shall provide the professional design-build and technical services required under this Agreement in accordance with acceptable architectural/engineering/construction practices and ethical standards.

B. Any additional services to be provided by the FIRM after completion of the initial Design-Build services shall be set out in detail by subsequent Agreement.

C. The Guaranteed Maximum Price proposal to be prepared and provided by the FIRM in accordance with this Agreement shall be used as a basis for negotiating the future Agreement for Construction Services. A Construction Fee not to exceed six percent (6.5%) shall be used in the calculation of the Total Project Cost.

D. The scope of services to be provided is indicated in **Exhibit A**.

**II. DATA AND SERVICES TO BE PROVIDED BY THE CITY**

The CITY shall provide:

A. Available plans and specifications of existing construction.

B. Ground topography.

**III. PERIOD OF SERVICE**

A. The FIRM shall begin work promptly after receipt of a fully executed copy of the Agreement. All work shall be completed within 11 months after issuance of the Notice to Proceed.

B. The FIRM's services called for under this Agreement shall be completed provided that, if the FIRM's services are delayed for reasons beyond the FIRM's control, the time of performance shall be adjusted appropriately.

**IV. GENERAL CONSIDERATIONS**

A. All original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the FIRM's services under this Agreement shall become and remain the property of the CITY upon receipt of payment by the FIRM from the CITY for services rendered in connection with the preparation of said sketches, tracings, etc. Where such documents are required to be filed with governmental agencies, the FIRM will furnish copies to the CITY upon request.

B. The CITY acknowledges that the materials cited in Paragraph IV. A. above, which are provided by the FIRM, are not intended for use in connection with any project or purpose other than the PROJECT and purpose for which such materials were prepared without prior written consent and adaptation by the FIRM shall be at the CITY's sole risk, and the FIRM shall have no responsibility or liability therefor.

C. Any use by the CITY of such materials in connection with a project or purpose other than that for which such materials were prepared without prior written consent and adaptation by the FIRM shall be at the CITY's sole risk, and the FIRM shall have no responsibility or liability therefore.

**V. COMPENSATION**

The CITY shall compensate the FIRM for the initial Design-Build engineering services performed under this Agreement a lump sum of \$1,247,653.00 to be billed in accordance with **Exhibit B**.

**VI. PAYMENT**

Payments shall be made upon presentation of the FIRM's approved invoice.

**VII. RECORDS**

Records for Personnel Expenses shall be kept on a generally recognized accounting basis and shall be available to the CITY or its authorized representative at mutually convenient times.

With respect to all matters covered by this Agreement, records will be made available for examination, audit, inspection, or copying purposes at any time during normal business hours at a location within Hillsborough County, Florida as often as the City, HUD, representatives of the Comptroller General of the United States or other federal agency may reasonably require. FIRM will permit same to be examined and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this Agreement. The City's right of inspection and audit shall obtain likewise with reference to any audits made by any other agency, whether local, state or federal. FIRM shall retain all records and supporting documentation applicable to this Agreement for five (5) years from the date of submission of the annual performance report to HUD. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or the end of the required period, whichever is later.

**VIII. PERSONNEL**

The FIRM represents that it has or will secure, at its own expense, all personnel required in performing the services under this Agreement. All personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Agreement. The FIRM further certifies that all of its employees assigned to serve the CITY have such knowledge and experience as required to perform the duties assigned to them. Any employee of the FIRM who, in the opinion of the CITY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the certain professional engineering services under this Agreement.

**IX. SUSPENSION, CANCELLATION OR ABANDONMENT**

Suspension, cancellation or abandonment of this Agreement shall be necessitated if any of the following occur: disclosure of CITY confidential information, procedures or activities; failure of the FIRM to aggressively, adequately, timely and appropriately perform the services required by this Agreement to the satisfaction of the CITY, or other similar cause.

In the event the PROJECT is suspended, cancelled or abandoned at the CITY's sole discretion, the FIRM shall be given fifteen (15) days prior written notice of such action and shall be compensated for the professional services provided and reimbursable expenses incurred up to the date of suspension, cancellation or abandonment in an amount mutually agreed to by the CITY and FIRM and supported by back-up documentation.

Upon suspension, cancellation or abandonment of the PROJECT by the CITY, the FIRM shall immediately cease work, deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the FIRM's services under this Agreement, and shall be compensated for its services rendered up to the time of such suspension, cancellation or abandonment on a quantum meruit basis; and the CITY shall have no further financial obligation to the FIRM.

## **X. TERMINATION**

### **A. Termination for Cause.**

In the event that the FIRM shall for any reason or through any cause not have completed performance within the time fixed for performance under this Agreement; or any representation or warranty made under Article XII of this Agreement shall prove to be untrue in any material respect; or the FIRM shall otherwise be in default under this Agreement; or the FIRM has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Agreement without the CITY's consent or approval; or the FIRM has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of FIRM assets; or the FIRM disclosed CITY confidential information, procedures or activities; or the FIRM fails to aggressively, adequately, timely and appropriately perform the services required by this Agreement to the satisfaction of the CITY, or other similar cause.

Then the CITY may provide five (5) days written notice that the conduct of the FIRM is such that the interests of the CITY are likely to be impaired or prejudiced, stating the facts upon which the opinion is based. Then the CITY may upon fifteen (15) days written notice, and at the end of the (15) days terminate this Agreement for cause (herein "Termination Date"). Upon that termination for cause, the FIRM shall be entitled to compensation for services properly and satisfactorily performed through the date of such termination for cause. However, no allowance shall be included for termination expenses. In the event of such termination for cause, the FIRM shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date; however, FIRM shall not be compensated for any anticipatory profits that have not been earned as of the date of the Termination Date. All work accomplished by FIRM prior to the Termination Date shall be documented. In the event the project is terminated for cause pursuant to this Article, the FIRM shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the FIRM's services under this Agreement. The aforementioned original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans shall be without restriction on future use by the CITY. Notwithstanding the above or any section herein to the contrary, FIRM shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the Contract by FIRM.

### **B. Termination for Convenience.**

The CITY may reduce the scope of work or terminate work under this Agreement or amendment to this Agreement without cause; in the event of such scope reduction or termination other than for cause, the CITY shall compensate the FIRM for services properly performed through the date of such reduction in scope or termination, which date shall be fixed in written notice from the CITY and which date shall be not sooner than fifteen (15) days after notice. Notwithstanding such termination or reduction in scope, the CITY shall be entitled to receive from the FIRM upon request any and all information related to the PROJECT and the CITY shall preserve and protect all such information and assure ready access thereto by the FIRM in connection with resolution of the amount due to

the Firm. The CITY, at its own discretion, shall be entitled to direct the FIRM to terminate any or all the FIRM's subcontracts or subconsulting agreements. In the event the project is terminated for convenience pursuant to this Article, the FIRM shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the FIRM's services under this Agreement. The aforementioned original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans shall be without restriction on future use by the CITY.

**XI. INSURANCE**

The FIRM, at its own cost and expense, shall effect and maintain at all times during the life of this Agreement insurance, in accordance with that indicated in **Exhibit C**.

**XII. INTERESTS OF MEMBERS OF THE CITY**

No member of the governing body of the CITY and no other officer, employee, or agent of the CITY who exercise any functions or responsibilities in connection with the carrying out of the Project to which this Agreement pertains shall have any personal interest, direct or indirect, in this Agreement.

**XIII. INTEREST OF THE FIRM**

The FIRM covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in any project to which this Agreement pertains or any other interest which would conflict in any manner or degree with its performance of any contracted service hereunder. The FIRM further covenants that in the performance of this Agreement no person having such interest shall be employed.

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

The FIRM shall disclose any clients that may either conflict with or affect its independent judgment when performing any work for the City of Tampa covered by this Agreement. Failure of the FIRM to disclose the above professional conflict of interest may result in termination of this Agreement and may require the return of all payments, if any, made to the FIRM from the CITY. If, in its sole discretion, the City of Tampa determines that a professional conflict of interest is deemed to exist, the FIRM shall be in default of this Agreement.

**XIV. COMPLIANCE WITH LAWS**

A. The FIRM shall comply with the applicable requirements of State laws and all Ordinances of the City of Tampa as amended from time to time.

B. If the PROJECT involves E.P.A. Grant eligible work, the CITY and the FIRM agree that the provisions of 40 CFR, Part 35, Appendix C-1, shall become a part of this Agreement and that such provisions shall supersede any conflicting provisions of this Agreement for work performed.

C. If the PROJECT involves work under other Federal or State Grantors or Approving Agencies, the CITY and the FIRM shall review and approve the applicable required provisions or any other supplemental provisions as may be included in the Agreement.

D. The FIRM shall assist the City in complying with all applicable terms and conditions of the government grants under Title XIII, Subchapter C, Part I of the Omnibus Budget Reconciliation Act of 1993 (26 U.S.C. 1391, et seq.) and under Title I of the Housing and Community Development Act of 1974 (PL 93-383), 24 CFR Part 570 et seq.

E. The FIRM agrees to comply with the requirements of the Secretary of Labor in accordance with the

Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standard insofar as those acts apply to the performance of this Agreement.

F. Truth-In-Negotiation Certification: The FIRM certifies that the wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of the execution of the Agreement of which this Certificate is a part. The original price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the Agreement amount was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs and that such original Agreement adjustments shall be made within one (1) year following the end of the Agreement.

**XV. ASSIGNABILITY**

The FIRM shall not assign or transfer any interest in this Agreement without consent from the City; provided, however, that the claim for money due or to become due the FIRM from the CITY under this Agreement may be assigned to a bank or other financial institution or to a Trustee in Bankruptcy. Notice of any such assignment shall be furnished promptly to the CITY.

**XVI. EQUAL EMPLOYMENT**

During the performance of this Agreement or any related Work Order, the FIRM shall:

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

B. In all solicitations or advertisements for employees placed by or on behalf of the FIRM, it must state that all qualified applicants will receive considerations for employment without regard to race, color, religion, age, sex, handicap, or national origin.

**XVII. EQUAL BUSINESS OPPORTUNITY PROGRAM**

A. See **Exhibit D** for Tampa's Equal Business Opportunity Program Procedures.

B. The FIRM shall demonstrate good faith effort toward the utilization of City of Tampa Certified Women/Minority Business subcontractors, subconsultants or suppliers.

C. The CITY shall make available a list of Certified Women/Minority Enterprises.

D. The FIRM shall report to the CITY its subcontractors/subconsultants/suppliers solicited or utilized as required by **Exhibit D**.

E. At the time of the submission of invoices, the FIRM shall submit to the CITY a report (Exhibit D) of all subcontractors, subconsultants or suppliers utilized with their final contract amounts and any other reports or forms as may be required by the CITY.

**XVIII. CODE OF ETHICS**

In connection with this Agreement, the FIRM hereby covenants and agrees that it shall comply with all applicable government laws, statutes, rules and regulations including, without limitation, the City of Tampa's Code of Ethics. Pursuant to Section 2-522 of the City of Tampa Code, the FIRM acknowledges that if it fails to comply with

the City of Tampa's Code of Ethics, such a failure shall render this Agreement voidable by the City and subject the FIRM to debarment from any future City contracts or agreements.

**XIX. NEGATION OF AGENT OR EMPLOYEE STATUS**

FIRM shall perform this Agreement as an independent consultant and nothing contained herein shall in any way be construed to constitute FIRM or the assistants of FIRM to be representative, agent, subagent, or employee of CITY or any political subdivision of the State of Florida. FIRM certifies FIRM's understanding that CITY is not required to withhold any federal income tax, social security tax, state and local tax, to secure worker's compensation insurance or employer's liability insurance of any kind or to take any other action with respect to the insurance or taxes of FIRM and assistants of FIRM.

In no event and under no circumstances shall any provision of this Agreement make CITY or any political subdivision of the State of Florida liable to any person or entity that contracts with or that provides goods or services to FIRM in connection with the Services the FIRM has agreed to perform hereunder or otherwise, or for any debts or claims of any nature accruing to any person or entity against FIRM; and there is no contractual relationship, either express or implied, between CITY or any political subdivision of the State of Florida any person or any political subdivision of the State of Florida any person or entity supplying any work, labor, services, goods or materials to FIRM as a result of the provisions of the Services provided by Consultant hereunder or otherwise.

**XX. SEVERABILITY**

If any item or provision to this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**XXI. CHOICE OF LAW**

The laws of the State of Florida (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its interpretation, construction, performance and enforcement.

**XXII. DESIGNATION OF FORUM**

Any part bringing a legal action or proceeding against any other party arising out of or relating to this Agreement may bring the legal action or proceeding in the United States District Court for the Middle District of Florida, Tampa Division or in any court of the State of Florida sitting in Tampa.

**XXIII. AUTHORIZATION**

Each party represents to the other that such has authority under all applicable laws to enter into an agreement containing each covenants and provisions as are contained herein, that all of the procedural requirements imposed by law upon each part for the approval and authorization of this Agreement have been properly completed, and that the persons who have executed the Agreement on behalf of each party are authorized and empowered to execute said Agreement.

**XXIV. ENTIRE AGREEMENT**

This Agreement sets forth the entire agreement between the parties and there are no promises or understandings other than those stated herein. Exhibits to this Agreement shall be deemed to be incorporated by reference as though set forth in full herein. In the event of a conflict or inconsistency between this Agreement and the provisions in the incorporated Exhibits, and unless otherwise specified herein, then this Agreement will prevail.

**XXV. INDEMNIFICATION**

**A. Indemnity.** In case any action at law or suit in equity may or shall be brought against the CITY or any of its officers, agents, or employees for or on account of the failure, omission, or neglect of the FIRM or its

subcontractors, employees, or agents, to do or perform any of the covenants, acts, matters, or things undertaken to be done or performed by the FIRM or its subcontractors, employees, or agents, or from any injuries done to property or persons and caused by the negligence or breach of contract of the FIRM or its subcontractors, employees, or agents, or in any other manner arising out of the negligent performance of the Work required under the Contract Documents or this Agreement by the FIRM then, to the extent such suit or action is due to the fault or neglect of the FIRM or its subcontractors, employees or agents, the FIRM shall defend the CITY in such action or suit as if said actions or suits have been brought directly against the FIRM; and the FIRM shall also indemnify and save harmless the CITY, its officers, agents, and employees from any and all loss, cost or damage whatever arising out of such actions or suits, in like manner and to all intents and purposes as if said actions or suits have been brought directly against the FIRM, but only to the extent such suit or action is due to the fault or neglect or breach of contract of the FIRM or its subcontractors, employees or agents. The FIRM shall not be required to defend, indemnify or hold harmless the CITY for any acts, omissions, or negligence of the city, the CITY's employees, agents, or separate contractors.

B. Liens and Judgments. The FIRM shall and does hereby assume all liability for and agrees to indemnify the CITY or its representatives against any or all loss, costs, damages, and liability for any or by reason of any lien, claims or demands, either for materials purchased or for work performed by laborers, mechanics, and others and from any damages, costs, actions, or causes of action and judgments arising from injuries sustained by mechanics, laborers, and other person by reason of accidents or otherwise, to the extent caused by the negligence or breach of contract of said Firm, or its subcontractors, agents, employees, or workmen.

C. Indemnity from Other Contractors. Upon request by the FIRM, and to the extent the CITY is able under its agreement with other contractors, the CITY shall cause any other contractor who may have a contract with CITY to perform work in the areas where work will be performed under this Agreement, to agree to indemnify the FIRM, subcontractors or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and hold them harmless from all claims for bodily injury and property damage that may arise from that contractor's operations. Such provisions shall be in a form satisfactory to the FIRM, but limited to the extent such liability or damage arises from neglect or breach of such separate contractor. If the FIRM makes a written request for such indemnity from other contractors employed by the CITY, the FIRM will have a corresponding obligation to the CITY's other contractors.

## **XXVI. ESTOPPEL/WAIVER**

No waiver of any provisions of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such waiver shall only be applicable to the specific instance in which it relates and shall not be deemed to be a continuing waiver.

The failure of the CITY to enforce any term or condition of this Agreement shall not constitute a waiver or estoppel of any subsequent violation of this Agreement.

## **XXVII. AUDIT REQUIREMENTS**

In the event, that during the period of this Agreement, FIRM expends more than \$500,000.00 in federal funds in an operating year from this and other federal grants, FIRM shall, at its own cost and expense, cause to be carried out an independent audit. The audit shall be completed and a copy furnished to the CITY, within the earlier of thirty (30) calendar days after receipt of the auditor's report(s) or nine (9) months after the end of the audit period, unless a longer period is agreed to in advance by the CITY. For purposes of this Agreement, an operating and/or audit year is the equivalent to the FIRM's fiscal year. The determination of when Grant Funds are expended is based on when the activity related to the expenditure occurs.

The audit shall be conducted in compliance with the Office of Management and Budget Circular No. A-133, as amended and 24 CFR Parts 84 and 85, as applicable, which are made a part of this Agreement by reference thereto. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not expended in accordance with the conditions of this Agreement, FIRM shall be held liable for reimbursement to the CITY of all funds not expended in accordance with these applicable regulations and Agreement provisions within thirty (30) calendar days after the CITY has notified FIRM of such non-compliance. Said reimbursement shall not preclude the CITY from taking any other action as provided herein.



If expenditure does not exceed \$500,000.00 during an operating year, FIRM shall provide the CITY with its annual financial statement within ninety (90) days of the end of its operating year. Said financial statement shall be prepared by an actively licensed certified public accountant.

**XXVIII. DEFAULT**

In accordance with 24 CFR 85.43, a default shall consist of any use of Grant Funds for a purpose other than as authorized by this Agreement, noncompliance with any provision in all Articles herein, any material breach of the Agreement, failure to comply with the audit requirements as provided herein, or failure to expend Grant Funds in a timely or proper manner. A cancellation for default pursuant to this Article shall not impair or limit the CITY’s remedy for the FIRM’s breach of warranty to the extent of work performed, not for errors or omissions in the professional engineering services prior to cancellation.

**XXIX. BUDGET APPROPRIATIONS**

The CITY is subject to Section 1666.241, Florida Statutes, and is not authorized to contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. With respect to this Agreement, the City has budgeted and appropriated sufficient monies to fund the CITY’s obligations under this Agreement. The obligations of the CITY hereunder shall not constitute a general indebtedness of the CITY within the meaning of the Florida Constitution.

IN WITNESS WHEREOF, the CITY has caused these presents to be executed in its name by its Mayor, and attested and its official Seal to be hereunto affixed by its City Clerk, and the FIRM has hereunto set its hand and Seal in TRIPLICATE, the day and year first written above.

CUTLER ASSOCIATES, INC.

CITY OF TAMPA, FLORIDA

By: \_\_\_\_\_  
Rick Lentz, Executive Vice President

By: \_\_\_\_\_  
Bob Buckhorn, Mayor (SEAL)

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Kim M. Beauchamp, Corporate Secretary (SEAL)

By: \_\_\_\_\_  
Shirley Foxx-Knowles, City Clerk

Approved as to Legal Sufficiency and authorized by Resolution No. 201\_\_-\_\_\_\_.

\_\_\_\_\_  
Justin R. Vaske, Assistant City Attorney

## **EXHIBIT A – SCOPE OF SERVICES**

### **A1 – CITY OF TAMPA WATER DEPARTMENT RELOCATION TO 26<sup>TH</sup> AVENUE, TAMPA, FLORIDA**

#### **1. Preconstruction and Design Phase Design/Builder Services**

- A. Validate Customer requirements along with the design team by meetings with Department Representatives.
- B. Perform a constructability review and prepare a detailed CSI Format 16 Division initial Schematic cost estimate from Schematic Plans and Specifications. The initial Schematic cost estimate will include: Detailed quantity survey of all project components along with Labor, Material, Trade Contractor, Equipment and General Conditions cost breakdowns.
- C. Prepare a Preliminary Construction Schedule.
- D. Determine appropriate Phasing Schemes.
- E. Determine aspects of the project appropriate for Value Engineering (VE) Analysis if required.
- F. Prepare updated Cost estimate. This Design Development Estimate will incorporate any changes from VE review and be in same 16 division detail as the initial Schematic estimate.
- G. Procure competitive bids for all work to be performed by trade contractors after meeting with the City to incorporate the City's Certified Women/Minority Business subcontractor program.
- H. Prepare a final Guaranteed Maximum Price (GMP) for elements of the project known based on selected trade contractors.
  1. Guaranteed Maximum Price, with detailed breakdown in CSI 16 division format consistent with the previous cost estimates to be developed once the Design phase is complete and the owner has accepted the 100% Construction Drawings.

2. Qualifications and bid proposals for all key subcontractors and suppliers proposed.
  3. A list of clarifications and assumptions made by Design/Builder in preparing Guaranteed Maximum Price.
  4. A list of Allowances (if any) included by the CM in preparing the Guaranteed Maximum Price.
- I. Meet with appropriate parties as necessary to review progress.
  - J. Design Coordination and Collaboration with the Design Team.
2. **Design Phase Architectural and Engineering Services**
- A. Includes Programming for the 26<sup>th</sup> Avenue Site
  - B. Excludes Topographical Survey, Legal Property Survey (or ALTA/ACSM Survey) and Phase I Environmental Site Assessment which will be provided by the City of Tampa
  - C. Excludes Voice/Data/Communications Design
  - D. Includes Geotechnical Investigation at the 26<sup>th</sup> Avenue Site
  - E. Includes Civil Engineering, Site Lighting and Landscape Design. Offsite Work is excluded and Civil Permitting Costs are not included.
  - F. Schematic Design Workshops:
    1. Two (2) Workshops with Water Department (2 hours Each Workshop)
  - G. Schematic Design Deliverables:
    1. Two (2) Full Size + Two (2) Half Size Drawings+ Electronic Copy (PDF format) including:
      - Site Plan
      - Floor Plans of Each Structure
      - Exterior Elevation
      - Schematic Wall Section
      - Outline Specifications
  - H. Design Development Workshops:
    1. Two (2) Workshops with Water Department (2 hours / Each Workshop)

I. Design Development Deliverables:

1. Two (2) Full Size + Two (2) Half Size Drawings+ Electronic Copy (PDF format)

- Site Plan
- Floor Plans
- Wall Sections
- Exterior Elevations
- Reflected Ceiling Plans
- Room Finish Schedules
- Equipment Plans
- Conceptual Drainage Plans
- Outline Specifications

J. 50% Construction Documents:

1. Two (2) Workshops with Water Department (2 hours / Each Workshop)

K. 50% CD Deliverables:

1. Two (2) Full Size + Two (2) Half Size Drawings + Electronic Copy (PDF format)

- Site Plan
- Floor Plans
- Wall Sections
- Exterior Elevations
- Roof Plans
- Reflective Ceiling Plans
- Room Finish Schedules
- Door & Frame Schedules
- Equipment Plans
- Grading Plans
- Utility Plans
- Lighting Plans
- Power Plans
- HVAC Plans
- Plumbing Plans
- Fire Protection Plans
- Structural Plans
- Civil Plans
- Draft Technical Specifications

L. 100% Construction Documents:

1. Two (2) Workshops with Water Department (2 hours / Each Workshop)

2. 100% CD Deliverables:

- a. Two (2) Full Size Signed & Sealed Construction Drawings
- b. Two (2) Copies Full Size + Two (2) Half Size Drawings
- c. Two (2) Copies Specifications
- d. Electronic Copy (PDF format)
- e. Electronic Copies (AutoCAD & Word Format) of all Plans and Specifications

**A2 – CITY OF TAMPA WASTEWATER DEPARTMENT  
RELOCATION TO HFC AWTP, PORT OF TAMPA, FLORIDA**

**1. Preconstruction and Design Phase Design/Builder Services**

- A. Validate Customer requirements along with the design team by meetings with Department Representatives.
  - B. Perform a constructability review and prepare a detailed CSI Format 16 Division initial Schematic cost estimate from Schematic Plans and Specifications. The initial Schematic cost estimate will include: Detailed quantity survey of all project components along with Labor, Material, Trade Contractor, Equipment and General Conditions cost breakdowns.
  - C. Prepare a Preliminary Construction Schedule.
  - D. Determine appropriate Phasing Schemes.
  - E. Determine aspects of the project appropriate for Value Engineering (VE) Analysis if required.
  - F. Prepare updated Cost estimate. This Design Development Estimate will incorporate any changes from VE review and be in same 16 division detail as the initial Schematic estimate.
  - G. Procure competitive bids for all work to be performed by trade contractors after meeting with the City to incorporate the City's Certified Women/Minority Business subcontractor program.
  - H. Prepare a final Guaranteed Maximum Price (GMP) for elements of the project known based on selected trade contractors.
5. Guaranteed Maximum Price, with detailed breakdown in CSI 16 division format consistent with the previous cost estimates to be developed once the Design phase is complete and the owner has accepted the 100% Construction Drawings.
  6. Qualifications and bid proposals for all key subcontractors and suppliers proposed.

7. A list of clarifications and assumptions made by Design/Builder in preparing Guaranteed Maximum Price.
  8. A list of Allowances (if any) included by the CM in preparing the Guaranteed Maximum Price.
  - I. Meet with appropriate parties as necessary to review progress.
- 2. Design Phase Architectural and Engineering Services**
- A. Includes Programming for the HFC AWTP Site
  - B. Includes Topographical Survey and Legal Property Survey.
  - C. Excludes Voice/Data/Communications Design
  - D. Includes Geotechnical Investigation at the HFC AWTP Site
  - E. Includes Civil Engineering, Site Lighting and Landscape Design. Offsite Work is excluded and Civil Permitting Costs are not included.
  - F. Includes Existing Building Investigation at the K-9 Facility and Development of Scope of Work:
    1. Review as-built drawings provided by the City of Tampa.
    2. Visit the site to visually survey, photo document and analyze as-built conditions.
    3. Evaluate the conditions of the existing building structure, components and cladding, roof system, mechanical systems, plumbing systems, electrical systems and provide a Report of Findings which includes recommendations for corrections of any systems or components found to be deficient.
    4. Evaluate the existing building envelope for water intrusion. Where evidence of water intrusion is observed, endeavor to determine the exact cause and extent of any damage and make recommendations for corrective action.
    5. An allowance in the amount of \$5,000.00 has been included for Mold Testing of any suspect areas found during the evaluation.
    6. Submit a written report with findings and recommendations.
    7. Meet with the City of Tampa staff to discuss findings and recommendations.
    8. During the Schematic Design Phase, evaluate existing building layouts and space requirements and compare to the new program

needs to determine the level of improvements necessary to accommodate the program space needs.

- G. Includes Existing Building Investigation at the 7,400 Square Feet Warehouse Facility and Development of Scope of Work:
1. Review as-built drawings provided by the City of Tampa.
  2. Visit the site to visually survey, photo document and analyze as-built conditions.
  3. Evaluate the conditions of the existing building structure, components and cladding, roof system, mechanical systems, plumbing systems, electrical systems and provide a Report of Findings which includes recommendations for corrections of any systems or components found to be deficient.
  4. Evaluate the existing building envelope for water intrusion. Where evidence of water intrusion is observed, endeavor to determine the exact cause and extent of any damage and make recommendations for corrective action.
  5. Submit a written report with findings and recommendations.
  6. Meet with the City of Tampa staff to discuss findings and recommendations.
  7. During the Schematic Design Phase, evaluate existing building layouts and space requirements and compare to the new program needs to determine the level of improvements necessary to enhance warehouse efficiency and accommodate additional storage capacity volume to serve the needs of this project.
- H. Schematic Design Workshops:
1. Two (2) Workshops with Wastewater Department (2 hours Each Workshop)
- I. Schematic Design Deliverables:
1. Two (2) Full Size + Two (2) Half Size Drawings+ Electronic Copy (PDF format) including:
    - Site Plan
    - Floor Plans of Each Structure
    - Exterior Elevation
    - Schematic Wall Section
    - Outline Specifications

J. Design Development Workshops:

1. Two (2) Workshops with Wastewater Department (2 hours / Each Workshop)

K. Design Development Deliverables:

1. Two (2) Full Size + Two (2) Half Size Drawings+ Electronic Copy (PDF format)

- Site Plan
- Floor Plans
- Wall Sections
- Exterior Elevations
- Reflected Ceiling Plans
- Room Finish Schedules
- Equipment Plans
- Conceptual Drainage Plans
- Outline Specifications

L. 50% Construction Documents:

1. Two (2) Workshops with Wastewater Department (2 hours / Each Workshop)

M. 50% CD Deliverables:

1. Two (2) Full Size + Two (2) Half Size Drawings + Electronic Copy (PDF format)

- Site Plan
- Floor Plans
- Wall Sections
- Exterior Elevations
- Roof Plans
- Reflective Ceiling Plans
- Room Finish Schedules
- Door & Frame Schedules
- Equipment Plans
- Grading Plans
- Utility Plans
- Lighting Plans
- Power Plans
- HVAC Plans
- Plumbing Plans
- Fire Protection Plans
- Structural Plans
- Civil Plans
- Draft Technical Specifications

N. 100% Construction Documents:

1. Two (2) Workshops with Wastewater Department (2 hours / Each Workshop)

2. 100% CD Deliverables:



- a. Two (2) Full Size Signed & Sealed Construction Drawings
- b. Two (2) Copies Full Size + Two (2) Half Size Drawings
- c. Two (2) Copies Specifications
- d. Electronic Copy (PDF format)
- e. Electronic Copies (AutoCAD & Word Format) of all Plans and Specifications

A Design & Preconstruction Phase Schedule for both the Water Department and Wastewater Department Projects is attached to this Exhibit.

ID	Task Name	Duration	Start	Finish	2015											
					June	July	August	September	October	November	December	January	February	March	April	May
					5/11/5/18/5/25	6/1/6/8/6/15/6/22/6/29	7/6/7/13/7/20/7/27	8/3/8/10/8/17/8/24/8/31	9/7/9/14/9/21/9/28/10/5/10/12/10/19/10/26	11/2/11/9/11/18/11/25/12/2/12/9/12/16/12/23	1/4/1/11/1/18/1/25	2/1/2/8/2/15/2/22/3/1/3/8/3/15/3/22/3/29	4/5/4/12/4/19/4/26	5/3/5/10/5/17/5/24/5/31		
1	City Council Meeting	1 day	Thu 6/26/14	Thu 6/26/14	6/26 City Council Meeting											
2	Contract Execution	10 days	Fri 6/27/14	Fri 7/11/14	Contract Execution											
3	Notice to Proceed with Design	0 days	Fri 7/11/14	Fri 7/11/14	7/11 Notice to Proceed with Design											
4	<b>Water Department Relocation Design</b>	<b>177 days</b>	<b>Mon 7/14/14</b>	<b>Wed 3/25/15</b>												
5	Survey	10 days	Mon 7/14/14	Fri 7/25/14	Survey											
6	Workshop Meetings	5 days	Mon 7/21/14	Fri 7/25/14	Workshop Meetings											
7	Schematic Design	22 days	Mon 7/14/14	Tue 8/12/14	Schematic Design											
8	Schematic Design Estimate	10 days	Wed 8/13/14	Tue 8/26/14	Schematic Design Estimate											
9	Owner - Schematic Design Review and Approval	15 days	Wed 8/27/14	Wed 9/17/14	Owner - Schematic Design Review and Approval											
10	Preliminary Permit Review	15 days	Wed 8/27/14	Wed 9/17/14	Preliminary Permit Review											
11	Design Development	30 days	Thu 9/18/14	Wed 10/29/14	Design Development											
12	Design Development Estimate	15 days	Thu 10/30/14	Wed 11/19/14	Design Development Estimate											
13	Civil Design	35 days	Thu 10/30/14	Fri 12/19/14	Civil Design											
14	Geotech Report Development	25 days	Thu 9/18/14	Wed 10/22/14	Geotech Report Development											
15	Owner Design Development Package Review and Approval	10 days	Thu 11/20/14	Fri 12/5/14	Owner Design Development Package Review and Approval											
16	50% Construction Document Design	22 days	Tue 11/18/14	Fri 12/19/14	50% Construction Document Design											
17	50% CD Design Review and Approval	5 days	Mon 12/22/14	Tue 12/30/14	50% CD Design Review and Approval											
18	Submit for Environmental Permitting	1 day	Mon 12/22/14	Mon 12/22/14	12/22 Submit for Environmental Permitting											
19	Environmental Permitting	62 days	Tue 12/23/14	Mon 3/23/15	Environmental Permitting											
20	100% Construction Document Design	25 days	Wed 12/31/14	Wed 2/4/15	100% Construction Document Design											
21	GMP Development	20 days	Thu 2/5/15	Wed 3/4/15	GMP Development											
22	100% CD Review and Approval	10 days	Thu 2/26/15	Wed 3/11/15	100% CD Review and Approval											
23	Building Permitting	22 days	Mon 2/23/15	Tue 3/24/15	Building Permitting											
24	NTP With Construction	1 day	Wed 3/25/15	Wed 3/25/15	3/25 NTP With Construction											
25	<b>Waste Water Department Relocation Design</b>	<b>177 days?</b>	<b>Mon 7/14/14</b>	<b>Wed 3/25/15</b>												
26	Survey/Existing Building Investigation	10 days	Mon 7/14/14	Fri 7/25/14	Survey/Existing Building Investigation											
27	Workshop Meetings	5 days	Mon 7/21/14	Fri 7/25/14	Workshop Meetings											
28	Schematic Design	22 days	Mon 7/14/14	Tue 8/12/14	Schematic Design											
29	Schematic Design Estimate	10 days	Wed 8/13/14	Tue 8/26/14	Schematic Design Estimate											
30	Owner - Schematic Design Review and Approval	15 days	Wed 8/27/14	Wed 9/17/14	Owner - Schematic Design Review and Approval											
31	Preliminary Permit Review	15 days	Wed 8/27/14	Wed 9/17/14	Preliminary Permit Review											
32	Design Development	30 days	Thu 9/18/14	Wed 10/29/14	Design Development											
33	Design Development Estimate	15 days	Thu 10/30/14	Wed 11/19/14	Design Development Estimate											
34	Civil Design	35 days	Thu 10/30/14	Fri 12/19/14	Civil Design											
35	Geotech Report Development	25 days	Thu 9/18/14	Wed 10/22/14	Geotech Report Development											
36	Owner Design Development Package Review and Approval	10 days	Thu 11/20/14	Fri 12/5/14	Owner Design Development Package Review and Approval											
37	50% Construction Document Design	22 days	Tue 11/18/14	Fri 12/19/14	50% Construction Document Design											
38	50% CD Design Review and Approval	5 days	Mon 12/22/14	Tue 12/30/14	50% CD Design Review and Approval											
39	Submit for Environmental Permitting	1 day	Mon 12/22/14	Mon 12/22/14	Submit for Environmental Permitting											
40	Environmental Permitting	62 days	Tue 12/23/14	Mon 3/23/15	Environmental Permitting											
41	100% Construction Document Design	25 days	Wed 12/31/14	Wed 2/4/15	100% Construction Document Design											
42	GMP Development	20 days	Thu 2/5/15	Wed 3/4/15	GMP Development											
43	100% CD & GMP Review and Approval	11 days	Wed 2/25/15	Wed 3/11/15	100% CD & GMP Review and Approval											
44	Building Permitting	22 days	Mon 2/23/15	Tue 3/24/15	Building Permitting											
45	NTP With Construction	1 day	Wed 3/25/15	Wed 3/25/15	3/25 NTP With Construction											

Project: COTWWDR - Design & Pre	Task	Summary	Inactive Milestone	Duration-only	Start-only	External Milestone	Critical Split
	Split	Project Summary	Inactive Summary	Manual Summary Rollup	Finish-only	Deadline	Progress
	Milestone	Inactive Task	Manual Task	Manual Summary	External Tasks	Critical	Manual Progress

**Exhibit B – PRECONSTRUCTION & DESIGN FEES**

**Exhibit B is broken out by the two Site Locations. Please also refer to the “Supplement to Exhibit B” for Sub-Consultants explanation of services and hourly breakdowns for each site location.**

**B1 - CITY OF TAMPA WATER DEPT. RELOCATION TO 26<sup>TH</sup> AVENUE, TAMPA, FLORIDA**

**Design/Builder (Cutler) Preconstruction Services Fee based on a \$6,395,968 Budget**

Administration	100 @ \$45.00 =	\$4,500.00
Estimator(s)	160 @ \$75.00 =	\$12,000.00
Sr. Project Manager	120@ \$110.00 =	\$13,200.00
Project Superintendent	40 @ \$95.00 =	\$3,800.00
Precon Manager/Design Coordinator	215 @ \$125.00 =	\$26,875.00
Operations Manager	60 @ \$150.00 =	\$9,000.00
Reimbursable Allowance	1 LSUM =	<u>\$1,750.00</u>

**Total Cutler Preconstruction Services Fee – Water Department \$71,125.00**

**Professional Design Services based on a \$6,395,968 Budget**

Architectural Services (Refer to Attached Hourly Breakdown)	\$245,375.00
Civil Design Services	\$53,300.00
Landscaping Design Services	\$10,750.00
Structural Design Services	\$28,530.00
M/E/P & FP Design Services	\$85,500.00
Geotechnical Investigation and Report (Allowance)	\$15,000.00
Reimbursable Allowance	\$6,000.00
Preliminary Permit Review Fees Allowance	<u>\$1,000.00</u>

**Total Professional Design Services Fee – Water Department \$445,455.00**

**TOTAL PRECONSTRUCTION SERVICES AND DESIGN FEES FOR THE WATER DEPARTMENT  
RELOCATION TO 26<sup>TH</sup> AVENUE: \$516,580.00**

**B2 - CITY OF TAMPA WASTEWATER DEPT. RELOCATION TO HFC AWTP, PORT OF TAMPA, FLORIDA**

**Design/Builder (Cutler) Preconstruction Services Fee based on a \$7,357,362 Budget**

Administration	100 @ \$45.00 =	\$4,500.00
Estimator(s)	176 @ \$75.00 =	\$13,200.00
Sr. Project Manager	136 @ \$110.00 =	\$14,960.00
Project Superintendent	40 @ \$95.00 =	\$3,800.00
Precon Manager/Design Coordinator	245 @ \$125.00 =	\$30,625.00
Operations Manager	60 @ \$150.00 =	\$9,000.00
Reimbursable Allowance	1 LSUM =	<u>\$1,750.00</u>

**Total Cutler Preconstruction Services Fee – Wastewater Department      \$77,835.00**

**Professional Design Services based on a \$7,357,362 Budget**

Architectural Services (Refer to Attached Hourly Breakdown)		\$307,605.00
Civil Design Services		\$69,200.00
Landscaping Design Services		\$11,750.00
Structural Design Services		\$42,650.00
M/E/P & FP Design Services		\$139,345.00
Geotechnical Investigation and Report (Allowance)		\$25,000.00
Existing Building Investigation (K-9 Facilities)		
Architectural (Refer to Attached Hourly Breakdown)		\$9,234.00
Structural		\$2,460.00
M/E/P		\$9,970.00
Allowance for Mold Testing		\$5,000.00
Existing Building Investigation (Warehouse Facilities)		
Architectural (Refer to Attached Hourly Breakdown)		\$8,794.00
Structural		\$2,080.00
M/E/P		\$11,150.00
Reimbursable Allowance		\$8,000.00
Preliminary Permit Review Fees Allowance		<u>\$1,000.00</u>

**Total Professional Design Services Fee – Wastewater Department      \$653,238.00**



A s s o c i a t e s

**TOTAL PRECONSTRUCTION SERVICES AND DESIGN FEES FOR THE WASTEWATER DEPARTMENT  
RELOCATION TO HFC AWTP: \$731,073.00**

**GRAND TOTAL PRECONSTRUCTION AND DESIGN FEES: \$1,247,653.00**

## CITY OF TAMPA INSURANCE REQUIREMENTS

During the life of the award/contract the Awardee/Contractor shall provide, pay for, and maintain insurance with companies authorized to do business in Florida, with an A.M. Best rating of B+ (or better) Class VII (or higher), or otherwise be acceptable to the City if not rated by A.M. Best. All insurance shall be from responsible companies duly authorized to do business in the State of Florida.

All commercial general liability insurance policies (and Excess or Umbrella Liability Insurance policies, if applicable) shall provide that the City is an additional insured as to the operations of the Awardee/Contractor under the award/contract including the additional insured endorsement, the subrogation waiver endorsement, and the Severability of Interest Provision. In lieu of the additional named insured requirement, if the Awardee/Contractor's company has a declared existing policy which precludes it from including additional insureds, the City may permit the Contractor to purchase an Owners and Contractors Protective Liability policy. Such policy shall be written in the name of the City at the same limit as is required for General Liability coverage. The policy shall be evidenced on an insurance binder which must be effective from the date of issue until such time as a policy is in existence and shall be submitted to the City in the manner described below as applicable to certificates of insurance.

The insurance coverages and limits required must be evidenced by a properly executed Acord 25 Certificate of Insurance on form or its equivalent. Each Certificate must be personally manually signed by the Authorized Representative of the insurance company shown in the Certificate with proof that he/she is an authorized representative thereof. Thirty days' written notice must be given to the City of any cancellation, intent not to renew, or reduction in the policy coverages, except in the application of the aggregate liability limits provisions. Should any aggregate limit of liability coverage be reduced, it shall be immediately increased back to the limit required by the contract. The insurance coverages required herein are to be primary to any insurance carried by the City or any self-insurance program thereof.

The following coverages are required:

A. Commercial General Liability Insurance shall be provided on the most current Insurance Services Office (ISO) form or its equivalent. This coverage must be provided to cover liability arising from premises and operations, independent contractors, products and completed operations, personal and advertising injury, contractual liability, and XCU exposures (if applicable). Completed operations liability coverage shall be maintained for a minimum of one-year following completion of work. The amount of Commercial General Liability insurance shall not be less than the amount specified.

(a) \$1,000,000 per occurrence and a \$2,000,000 general aggregate for projects valued at \$2,000,000 or less. General aggregate limit for projects over that price shall equal or exceed the price of the project. An Excess or Umbrella Liability insurance policy can be provided to meet the required limit. Risk Management may be contacted for additional information regarding projects of this nature.

B. Automobile Liability Insurance shall be maintained in accordance with the laws of the State of Florida, as to the ownership, maintenance, and use of all owned, non-owned, leased, or hired vehicles. The amount of Automobile Liability Insurance shall not be less than the amount specified.

(a) \$500,000 combined single limit each occurrence bodily injury & property damage- for projects valued at \$100,000 and under

(b) \$1,000,000 combined single limit each occurrence bodily injury & property damage – for projects valued over \$100,000

C. Worker's Compensation and Employer's Liability Insurance shall be provided for all employees engaged in the work under the contract, in accordance with the Florida Statutory Requirements. The amount of the Employer's Liability Insurance shall not be less than:

(a) \$500,000 bodily injury by accident and each accident, bodily injury by disease policy limit, and bodily injury by disease each employee – for projects valued at \$100,00 and under

(b) \$1,000,000 bodily injury by accident and each accident, bodily injury by disease policy limit, and bodily injury by disease each –for projects valued over \$100,000

D. Excess Liability Insurance or Umbrella Liability Insurance may compensate for a deficiency in general liability, automobile, or worker's compensation insurance coverage limits. If the Excess or Umbrella policy is being provided as proof of coverage, it must name the City of Tampa as an additional insured (**IF APPLICABLE**).

E. Builder's Risk Insurance, specialized policy designed to cover the property loss exposures that are associated with construction projects. The amount of coverage should not be less than the amount of the project. **(IF APPLICABLE)**.

F. Installation Floater- a builder's risk type policy that covers specific type of property during its installation, is coverage required for highly valued equipment or materials such as compressors, generators, or other machinery that are not covered by the builder's risk policy **(IF APPLICABLE)**.

G. Longshoreman's & Harbor Worker's Compensation Act/Jones Act coverage shall be maintained for work being conducted upon navigable water of the United States. The limit required shall be the same limit as the worker's compensation/employer's liability insurance limit **(IF APPLICABLE)**.

H. Professional Liability shall be maintained against claims of negligence, errors, mistakes, or omissions in the performance of the services to be performed and furnished by the Awaradee/Contractor or any of its subcontractors when it acts as a DESIGN PROFESSIONAL. The amount of coverage shall be no less than amount specified **(IF APPLICABLE)**.

(a) \$1,000,000 per incident and general aggregate. Note all claims made policies must provide the date of retroactive coverage.

The City may waive any or all of the above referenced insurance requirements based on the specific nature of goods or services to be provided under the award/contract.

ADDITIONAL INSURED - The City must be included as an additional insured by on the general and (Excess or Umbrella liability policies) if applicable. Alternatively, the Contractor may purchase a separate owners protective liability policy in the name of the City in the specified amount as indicated in the insurance requirements.

CLAIMS MADE POLICIES - If any liability insurance is issued on a claims made form, Contractor agrees to maintain uninterrupted coverage for a minimum of one year following completion and acceptance of the work either through purchase of an extended reporting provision, or through purchase of successive renewals with a retroactive

date not later than the beginning of performance of work for the City. The retroactive date must be provided for all claims made policies.

CANCELLATION/NON-RENEWAL - Thirty (30) days written notice must be given to the City of any cancellation, intent to non-renew or material reduction in coverages (except aggregate liability limits). However, ten (10) days notice may be given for non-payment of premium. Notice shall be sent to the City of Tampa Department of Public Works, 306 E. Jackson Street, Tampa, FL 33602.

NUMBER OF POLICES - General and other liability insurance may be arranged under single policies for the full amounts required or by a combination of underlying policies with the balance provided by an excess or umbrella liability insurance policy.

WAIVER OF SUBROGATION - Contractor waives all rights against City, its agents, officers, directors and employees for recovery of damages to the extent such damage is covered under the automobile or excess liability policies.

SUBCONTRACTORS - It is the Contractor's responsibility to require all subcontractors to maintain adequate insurance coverage.

PRIMARY POLICIES - The Contractor's insurance is primary to the City's insurance or any self insurance program thereof.

RATING - All insurers shall be authorized to do business in Florida, and shall have an A.M. Best rating of B+ (or better), Class VII (or higher), or otherwise be acceptable to the City if not rated by A.M. Best.

DEDUCTIBLES - The Contractor is responsible for all deductibles. In the event of loss which would have been covered but for the presence of a deductible, the City may withhold from payment to Contractor an amount equal to the deductible to cover such loss should full recovery not be obtained under the insurance policy.

INSURANCE ADJUSTMENTS - These insurance requirements may be increased, reduced, or waived at the City's sole option with an appropriate adjustment to the Contract price.

Document updated on 12/22/2009 by RLD (Risk Management)

## **EXHIBIT D**

### City of Tampa's Equal Business Opportunity Program Procedures for Construction Management and Design-Build Projects

- Prior to the time goals are set, the Construction Manager (CM) or the Design-Builder (D-B) provides information on subcontract packages planned (via the Project Task Worksheet) and their sequencing.
- The CM (or D-B) participates in a meeting to establish aspirational goals for SLBE or W/MBE subcontractor participation for the project.
- For each subcontracting package to be bid, the CM (or D-B) confirms with the MBD Office, the list of available SLBE or W/MBE firms to be solicited.
- The CM (or D-B) documents notification of all potential subcontractors, including the SLBE or W/MBE firms identified above
- The CM (or D-B) receives, opens, and tabulates subcontract bid results. The City, including representatives of the managing department and the MBD Office, may be present for the bid openings or to review the bids submitted.
- The CM (or D-B) provides to the City, a tabulation of all bids received and its determination of the lowest responsive/responsible bidder. If bids received exceed contracted Guaranteed Maximum Price, CM (or D-B) advises City as to how they will proceed. If re-bidding is selected, notification at least equal to the original solicitation will occur.
- As all subcontracts are executed, final copies are provided to the City. Where participation is achieved via sub-subcontractors and/or suppliers, the CM (or D-B) provides the City with copy of executed agreement or purchase order as documentation.
- During construction, monitoring activities may including but may not be limited to, subcontractor payment reports to be submitted with pay requests, prior approval by the MBD Office and the managing departments, of any replacement of SLBE or W/MBE subcontractors, and a report of final amounts paid to all subcontractors.



# Procurement Guidelines To Implement Minority & Small Business Participation

## Underutilized WMBE Sub-Contractors / Sub-Consultants By Industry Category

	Construction	Construction-Related	Professional	Non-Professional	Goods
<b>SUB WORK</b>	Black	Black	Black	Black	Black
		Asian	Hispanic	Asian	Asian
		Native Am.	Asian	Native Am.	Native Am.
		Woman	Native Am.		Woman
			Woman		

### Purpose

Use this form to determine which WMBEs are underutilized for a particular industry (i.e. only Black owned businesses are currently underutilized in the construction industry).

### Policy

The Guidelines apply to formal procurements and solicitations. WMBE participation will be narrowly-tailored. Applicable policies may include subcontracting goals and up to 10 rating points for subconsulting arrangements.

### Index

- **Black** = Black/African-American Business Enterprise
- **Hispanic** = Hispanic Business Enterprise
- **Asian** = Asian Business Enterprise
- **Native Am.** = Native American Business Enterprise
- **Woman** = Woman Business Enterprise (Caucasian)

### Industry Categories

**Construction** is defined as new construction, renovation, restoration, maintenance of public improvements and underground utilities.

**Construction-Related Services** are defined as architecture, professional engineering, landscape architecture, design build, construction management services, or registered surveying and mapping.

**Professional Services** are defined as attorney, accountant, medical doctor, veterinarian, miscellaneous consultant, etc.

**Non-Professional Services** are defined as lawn maintenance, painting, janitorial, printing, hauling, security guard, etc.

**Goods** are defined as all supplies, materials, pipes, equipment, machinery, appliances, and other commodities.



EXHIBIT D

Page 3 of 4DMI – Solicited/Utilized
City of Tampa –DMI Schedule of Sub-(Contractors/Consultants/Suppliers) to be Utilized
(FORM MBD-20)

Contract No.: Contract Name: Water/Wastewater Maintenance Facility Relocations 14C5
Contractor Name: Cutler Associates, Inc. Address: 8918 Brittany Way, Tampa, FL 33619
Federal ID: 04-2521134 Phone: 813-637-8883 Fax: 813-637-8884 Email: rlentz@cutlerdb.com

[X] See attached documents.
[ ] No Subcontracting (of any kind) will be performed on this contract.

NIGP Code General Categories: Buildings = 909, General = 912, Heavy = 913, Trades = 914, Architects = 906, Engineers & Surveyors = 925, Supplier = 912-77

This DMI Schedule Must Be Submitted with the Bid or Proposal (Do Not Modify This Form)

Enter "S" for firms Certified as Small Local Business Enterprises, "W" for firms Certified as Women/Minority Business Enterprise

Table with 6 columns: S/W, Company Name, Address, Phone & Fax, Type of Ownership, Trade Services or Materials, NIGP Code, Amount of Quote, Letter of Intent, Percent of Scope/Contract %

Total Subcontract/Supplier Utilization \$ 384,185
Total SLBE Utilization \$ 384,185
Total WMBE Utilization \$ 384,185

Percent SLBE Utilization of Total Bid/Proposal Amt. 30.8 % Percent WMBE Utilization of Total Bid/Proposal Amt. 30.8 %

It is hereby certified that the following information is a true and accurate account of utilization for sub-contracting opportunities on this contract. This form must be completed and submitted with the bid or proposal. Modifying or failing to sign DMI forms may result in Non-Compliance and/or deemed non-responsive.

Signed: [Signature] Name/Title: Rick Lentz, Executive V.P. Date: 5-30-2014

MBD 20 rev. 02/01/13

Note: Detailed Instructions for completing this form are on the next page.