

Agmt

RESOLUTION NO. 2018- 1049

A RESOLUTION APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$1,998,539 BETWEEN THE CITY OF TAMPA AND ARCADIS U.S., INC. IN CONNECTION WITH CONTRACT 18-D-00022; ENGINEER OF RECORD – MCKAY BAY REFUSE TO ENERGY FACILITY; 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, as applicable, the City of Tampa (“City”) selected Arcadis U.S., Inc. (“Consultant”) to provide certain professional services as detailed in the Agreement for Consultant Services (“Agreement”); and

WHEREAS, the City desires to enter into an agreement with the Consultant to provide certain professionals services; and

WHEREAS, it is in the best interests of the City to enter into the Agreement.

NOW, THEREFORE,

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

Section 1. That the Agreement between the City of Tampa and Arcadis U.S., Inc. in connection with Contract 18-D-00022; Engineer Of Record – Mckay Bay Refuse To Energy Facility as detailed in said Agreement, a copy of which is attached hereto and made a 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. This will provide for the award of professional services for the McKay Bay Refuse to Energy Facility in the amount of \$398,539 in FY2019, \$400,000 in FY2020, \$400,000 in FY2021, \$400,000 in FY2022, and \$400,000 in FY2023 subject to annual appropriations for use by the Solid Waste Department within the Solid Waste Operations Fund.

Section 4. That the 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 NUNC PRO TUNC September 20, 2018, by the City Council of the City of Tampa, Florida, on DEC 05 2018.

Chairman/Chairman Pro-Tem, City Council

ATTEST:

City Clerk/Deputy City Clerk

Approved as to legal sufficiency by
Rachel S. Peterkin, Assistant City Attorney

Y2018-29

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT ("Agreement") made and entered into at Tampa, Florida, as of the 20th day of September, 2018, when Resolution No. 2018-_____ was passed and adopted *nunc pro tunc* authorizing execution of this Agreement, by and between the CITY OF TAMPA, a municipal corporation of the State of Florida, hereinafter referred to as "CITY", the notice address of which is 315 East Kennedy Boulevard, Tampa, Florida 33602, and ARCADIS U.S., INC., a corporation chartered and existing under the laws of the State of Delaware, hereinafter referred to as "CONSULTANT", the notice address of which is 3109 West Dr. Martin Luther King Jr. Boulevard, Suite 350, Tampa, FL 33607.

WITNESSETH

WHEREAS, the CITY desires to engage the CONSULTANT to perform certain professional architectural/engineering consulting services pertinent to such work which shall be referred to as Contract 18-D-00022; Engineer of Record — McKay Bay Refuse To Energy Facility ("PROJECT") in accordance with this Agreement; and

WHEREAS, the CONSULTANT desires to provide such professional 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 CONSULTANT to the CITY will be that of an independent professional consultant for the PROJECT; and the CONSULTANT shall provide the professional and technical services required under this Agreement in accordance with acceptable architectural/engineering practices and ethical standards.

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

II. DATA AND SERVICES TO BE PROVIDED BY THE CITY

The parties acknowledge and agree that the CITY has provided and CONSULTANT has in its possession those available plans and specifications of existing construction, if any, applicable to the McKay Bay Refuse To Energy Facility.

III. PERIOD OF SERVICE

A. The Effective Date of this Agreement shall be October 1, 2018. This Agreement shall remain in force for a period of five (5) years from and after the Effective Date ("Initial Term"). The CITY may upon written notice to CONSULTANT renew this Agreement on the same terms and conditions for one additional 2-year period ("Renewal Term").

B. The CONSULTANT's services called for under this Agreement shall be completed provided that, if the CONSULTANT's services are delayed for reasons beyond the CONSULTANT'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 CONSULTANT's services under this Agreement shall become and remain the property of the CITY upon receipt of payment by the CONSULTANT 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 CONSULTANT 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 CONSULTANT, 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 CONSULTANT shall be at the CITY's sole risk, and the CONSULTANT 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 are prepared without prior written consent and adaptation by the CONSULTANT shall be at the CITY's sole risk, and the CONSULTANT shall have no responsibility or liability therefore.

V. COMPENSATION

A. The CITY shall compensate the CONSULTANT for the services performed in connection with this Agreement as follows:

TERM		NOT TO EXCEED AMOUNT
<i>Initial Term:</i>		
Year 1	10/01/2018 - 9/30/2019	\$398,539
Year 2	10/01/2019 - 9/30/2020	\$400,000
Year 3	10/01/2020 – 9/30/2021	\$400,000
Year 4	10/01/2021 – 9/30/2022	\$400,000
Year 5	10/01/2022 – 9/30/2023	\$400,000
<i>Renewal Term:</i>		
Year 6	10/01/2023 – 9/30/2024	\$400,000
Year 7	10/01/2024 – 9/30/2025	\$400,000

Said amounts are expressly subject to Article XXIX, entitled **BUDGET APPROPRIATIONS**, below and the CITY shall not be liable for and CONSULTANT shall not incur any costs above the foregoing not to exceed amounts, and CONSULTANT shall not incur costs in excess of the foregoing not to exceed amounts, which amounts may only be increased by a writing signed by the Mayor and approved by City Council.

B. Attached as **Exhibit B** to this Agreement is the parties' best estimate of the fees and costs to be incurred by CONSULTANT in providing the services described in Exhibit A during Year 1 of this Agreement. CONSULTANT shall use its best efforts to perform each of the tasks described in Exhibit A within said not to exceed amount. CONSULTANT acknowledges that the fee and cost estimates included in Exhibit B do not constitute fixed or minimum amounts payable by the CITY. All labor charges shall be in accordance with the per hour rates noted in Exhibit B. Invoiced hours shall be subject to City review and approval before being payable. If performance involves the services of others or the furnishing of equipment, supplies, or materials, CONSULTANT agrees to pay for the same in full and at the time of payment application to the City, CONSULTANT shall certify in writing that said payments have been so made. The per hour rates set forth in Exhibit B are "fully burdened" (i.e. inclusive of all costs for labor, overhead and profit associated with providing an hour of work by the named individual or labor/trade classification). and shall be charged regardless of whether the work is "straight" or "overtime". Examples of costs considered to be included as part of fully-burdened unit prices or labor rates and for which separate assessments or requests for direct reimbursement will not be allowed:

- (i) Costs for travel to and from the worksite including costs for travel time, transportation expenses, meals/subsistence lodging, per diem, or any other travel or living type expenses unless first approved in advance and in writing by the CITY.
- (ii) Profit, fees, surcharges, mark-ups, or other indirect charges unless first approved in advance and

in writing by the CITY.

CONSULTANT shall notify the CITY in writing whenever CONSULTANT has reason to believe that the costs CONSULTANT expects to incur in the following 60 days, when added to all costs previously incurred, will exceed 75% of the Exhibit B estimated costs; or the total cost for performance will be either greater or substantially less than shown on Exhibit B. As part of the notification, CONSULTANT shall provide the CITY with a revised estimate of the total cost of performance. Notwithstanding anything herein to the contrary, the CITY shall have the right upon written notice to CONSULTANT through the Director of its Department of Solid Waste (or authorized designee) to from time to time with regard to any given year of the term to redistribute not to exceed amounts among tasks or line items and to redistribute labor hours among tasks and labor classifications without further action by the Mayor or City Council.

C. Not less than 45 days prior to the anniversary of the Effective Date, CONSULTANT shall submit for the City's consideration in substantially similar form to Exhibit B as originally attached to this Agreement its best estimate of the fees and costs to be incurred by CONSULTANT in providing the services described in Exhibit A for the coming year ("Exhibit B Proposal") together with any increases to the hourly billing rates effective with regard to the coming calendar year based on any annual increase in the cost-of-living, based on increases in the national (U.S. City Average) consumer price index (CPI) for urban wage earners and clerical workers (CPI-U), or any successor index, published by the Bureau of Labor Statistics for the 12-month period ending on the preceding July 31; provided, however, any proposed increase shall only be allowed if timely submitted and accompanied by a written calculation of the CPI increase/decrease. Further, if timely submitted said increase shall only be allowed where there was an actual increase in the CIP as calculated, shall not exceed 2% regardless of the actual calculated increase. An example of the calculation to be used by CONSULTANT follows:

$$\frac{(\text{July 2019 value}) - (\text{Aug 2020 value})}{(\text{Aug 2020 value})} \times 100\% = \text{CIP Increase/Decrease}$$

If the Exhibit B Proposal is acceptable to the CITY, it shall become fully incorporated into this Agreement as part of Exhibit B with regard to the applicable year noted therein only upon said Exhibit B Proposal being affixed with the manual signature of the Director of the Department of Solid Waste (or the head of its successor department), which may be affixed without the need for any further action by the Mayor or City Council.

VI. PAYMENT

Payments shall be made upon presentation of the CONSULTANT's approved invoice, which shall be submitted monthly.

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, representatives of the Comptroller General of the United States or other state or federal agency may reasonably require. CONSULTANT 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. CONSULTANT shall retain all records and supporting documentation applicable to this Agreement for five (5) years from the expiration or earlier termination of this Agreement, including any renewal term, or such longer period as required by law. 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; KEY STAFF

A. The CONSULTANT 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 for work under this Agreement. The CONSULTANT 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 CONSULTANT 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.

B. Leah Richter, PE and Michael DeLoach, PE, ASME-QRO, as CONSULTANT’s Project Manager and Deputy Project Manager, respectively, have each been granted full authority to bind and obligate CONSULTANT on all matters arising out of or relating to the services described herein, which individual has the responsibility to satisfactorily manage the services described herein. CONSULTANT shall ensure that said individuals together with those named below (“Key Staff”) shall be available to perform the services described herein for so long as such individual(s) is/are in their current employ. Key Staff shall not be added to, changed, or removed (nor shall they be substituted from the roles or functions identified in CONSULTANT’s proposal dated June 21, 2018, submitted in response to RFQ 18-D-00022) without first obtaining the CITY’s prior written consent (not to be unreasonably withheld) in response to a written request from CONSULTANT stating the reasons for any proposed modification to Key Staff and providing such information as the CITY may require to evaluate the suitability of said modification. The CITY will act reasonably in its evaluation; provided, however, its acceptance shall not constitute any responsibility or liability for any such individual’s ability to perform the work.

Name	Labor Classification
Leah Richter, PE	Associated Vice President
Michael DeLoach, PE, ASME-QRO	Project Engineer
Cindy Eckert, PE	Senior Project Engineer
Joe Krupa, PE	Senior Associate
Amit Chattopadhyay, PE	Office Vice President
Eric Battle, PE	Senior Project Engineer
Chris Tilman, PE	Senior Associate
Kushala Gowda, PE	Senior Project Engineer

IX. SUSPENSION, CANCELLATION OR ABANDONMENT

In the event the PROJECT is suspended, cancelled or abandoned, the CONSULTANT 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 CONSULTANT and supported by back-up documentation.

Upon suspension, cancellation or abandonment hereof, CONSULTANT shall immediately cease work hereunder and shall be compensated for its services rendered up to the time of such cancellation or termination on a quantum meruit basis; and the CITY shall have no further financial obligation to CONSULTANT.

In the event the PROJECT is suspended, cancelled or abandoned, the CONSULTANT shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the CONSULTANT’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.

X. TERMINATION

A. Termination for Cause. In the event that the CONSULTANT 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

CONSULTANT shall otherwise be in default under this Agreement; or the CONSULTANT has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Agreement without the CITY's consent or approval; or the CONSULTANT 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 CONSULTANT assets; or the CONSULTANT disclosed CITY confidential information, procedures or activities; or the CONSULTANT fails to aggressively, adequately, timely and appropriately perform the services required by this Agreement to the satisfaction of the CITY, or other similar cause, the CITY may terminate this Agreement for cause.

Then the CITY may provide five (5) days written notice that the conduct of the CONSULTANT 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 CONSULTANT 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 CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date; however, CONSULTANT 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 CONSULTANT prior to the Termination Date shall be documented. In the event the project is terminated for cause pursuant to this Article, the CONSULTANT shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the CONSULTANT'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, CONSULTANT shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the Contract by CONSULTANT. If, after notice of termination of CONSULTANT's right to proceed pursuant to this paragraph, it is determined for any reason that CONSULTANT was not in default, or that its default was excusable, or that the CITY is not entitled to the remedies against CONSULTANT provided herein, then such termination shall be deemed a termination for CITY's convenience and CONSULTANT's remedies against CITY shall be the same as and limited to those afforded CONSULTANT under paragraph B of this Article, entitled Termination of Convenience.

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 CONSULTANT 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 CONSULTANT 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 CONSULTANT in connection with resolution of the amount due to the CONSULTANT. The CITY, at its own discretion, shall be entitled to direct the CONSULTANT to terminate any or all the CONSULTANT's subcontracts or subconsulting agreements. In the event the project is terminated for convenience pursuant to this Article, the CONSULTANT shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the CONSULTANT'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 CONSULTANT, 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 CONSULTANT

The CONSULTANT 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 CONSULTANT further covenants that in the performance of this Agreement no person having such interest shall be employed.

The CONSULTANT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT 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 CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

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

XIV. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with the applicable requirements of State laws and all Codes and Ordinances of the City of Tampa as amended from time to time, together with keeping and maintaining in full force and effect during the term of this Agreement all licenses and certificates of authorization required pursuant to applicable law, including without limitation those required by Chapters 471, 481, and 489, Florida Statutes.

B. If the PROJECT involves E.P.A. Grant eligible work, the CITY and the CONSULTANT 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 under said Agreement.

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

D. Truth-In-Negotiation Certification: The CONSULTANT 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.

E. Any documents provided by CONSULTANT to the CITY are public records and the CITY may authorize third parties to review and reproduce such documents pursuant to public records laws, including the provisions of Chapter 119, Florida Statutes

XV. ASSIGNABILITY

The CONSULTANT 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 CONSULTANT 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 CONSULTANT shall:

A. Not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, handicap, or national origin. CONSULTANT 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. CONSULTANT 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 CONSULTANT, 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. CONSULTANT shall demonstrate good faith effort toward the utilization of CITY certified Women/ Minority Business Enterprise (W/MBE) and Small Local Business Enterprise (SLBE) subconsultants or suppliers.

B. The CITY shall make available a list of Certified W/MBEs and SLBEs.

C. The CONSULTANT shall report to the CITY its subcontractors/subconsultants/suppliers solicited or utilized (**Exhibit D**).

D. At the time of the submission of invoices, the CONSULTANT 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. CITY CODE OF ETHICS

In connection with this Agreement, the CONSULTANT hereby covenants and agrees that it shall comply with all applicable governmental 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 CONSULTANT 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 CONSULTANT to debarment from any future CITY contracts or agreements.

XIX. NEGATION OF AGENT OR EMPLOYEE STATUS

CONSULTANT shall perform this Agreement as an independent consultant and nothing contained herein shall in any way be construed to constitute CONSULTANT or the assistants of CONSULTANT to be representative, agent, subagent, or employee of CITY or any political subdivision of the State of Florida. CONSULTANT certifies CONSULTANT'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 CONSULTANT and assistants of CONSULTANT.

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

CONSULTANT in connection with the Services the CONSULTANT has agreed to perform hereunder or otherwise, or for any debts or claims of any nature accruing to any person or entity against CONSULTANT; 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 CONSULTANT 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 party 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 party 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.

XIV. 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

The CONSULTANT shall 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 this Agreement.

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, CONSULTANT expends more than \$750,000.00 in federal funds in an operating year from this and other federal grants, CONSULTANT 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 CONSULTANT'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: Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 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, CONSULTANT 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 CONSULTANT of such non-compliance. Said reimbursement shall not preclude the CITY from taking any other action as provided herein.

If expenditure does not exceed \$750,000.00 during an operating year, CONSULTANT 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.

State Single Audit: Each non-state entity shall comply with all applicable requirements of section 215. 97, F .S ., and Audit Requirements. A State single audit is required if an nonstate entity expends \$750,000 or more of State financial assistance in any fiscal year of such non-state entity in accordance with the requirements of the Florida Single Audit Act.

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 CONSULTANT'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 166.241, 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 Year 1 of this Agreement; however, all funding under this Agreement for subsequent years is subject to the availability of funds. In the event no funds or insufficient funds are appropriated for expenditures under this Agreement, the CITY will notify the CONSULTANT in writing of such occurrence and the Agreement shall automatically terminate without penalty or expense to the CITY on the last day of the fiscal year in which sufficient funds have been appropriate. The obligations of the CITY hereunder shall not constitute a general indebtedness of the CITY within the meaning of the Florida Constitution.

XXX. SCRUTINIZED COMPANIES

Section 287.135, Florida Statutes, prohibits agencies or local governmental entities entering into or renewing a contract for goods or services (i) of any amount with companies that are on the Boycott Israel List or engaged in a

boycott of Israel and (ii) of \$1 million or more, with companies that are on either the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria. A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services (i) of any amount with companies that are on the Boycott Israel List or engaged in a boycott of Israel and (ii) of \$1 million or more, with companies that are on either the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria. CONSULTANT certifies that it is not in violation of Section 287.135, Florida Statutes. CONSULTANT acknowledges and agrees this Agreement may be terminated at the CITY's option if it is found (i) CONSULTANT's foregoing certification is false or (ii) CONSULTANT has been placed on such lists, been engaged in a boycott of Israel, or been engaged in business operations in Cuba or Syria.

XXXI. PUBLIC RECORDS

A. **Exempt Plans.** CONSULTANT pursuant to this Agreement (and as part of the solicitation process that resulted in award of this Agreement) may hold, come into possession of, and/or generate certain building plans, blueprints, schematic drawings, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, facility, or other structure owned or operated by the CITY or an agency (singularly or collectively "Exempt Plans"), which pursuant to Section 119.071(3), Florida Statutes, are exempt from Section 119.07(1), Florida Statutes and Section 24(a), Art. I of the Florida State Constitution. CONSULTANT certifies it has read and is familiar the exemptions and obligations of Section 119.071(3), Florida Statutes; further that CONSULTANT is and shall remain in compliance with same, including without limitation maintaining the exempt status of such Exempt Plans, for so long as any Exempt Plans are held by or otherwise in its possession. This section shall survive the expiration of earlier termination of this Agreement.

B. **Data Collection.** Pursuant to Section 119.071(5)(a)2a, Florida Statutes, social security numbers shall only be collected from CONSULTANT by the CITY should such number be needed for identification, verification, and/or tax reporting purposes. To the extent CONSULTANT collects an individual's social security number in the course of acting on behalf of the CITY pursuant to the terms and conditions this Agreement, CONSULTANT shall follow the requirements of Florida's Public Records Law.

C. **Access.** The CITY is a public agency subject to Chapter 119, Florida Statutes. In accordance with Florida Statutes, 119.0701, CONSULTANT agrees to comply with Florida's Public Records Law, including the following:

1. CONSULTANT shall keep and maintain public records required by the CITY to perform the services under this Agreement;

2. Upon request by the CITY, provide the CITY with copies of the requested records, having redacted records in total on in part that are exempt from disclosure by law or allow the records to be inspected or copied within a reasonable time (with provision of a copy of such records to the CITY) on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

3. Ensure that records, in part or in total, that are exempt or that are confidential and exempt from disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion (or earlier termination) of the Agreement if CONSULTANT does not transfer the records to the CITY;

4. Upon completion (or earlier termination) of the Agreement, CONSULTANT shall within 30 days after such event either transfer to the CITY, at no cost, all public records in possession of the CONSULTANT or keep and maintain the public records in compliance with Chapter 119, Florida Statutes. If CONSULTANT transfers all public records to the CITY upon completion (or earlier termination) of the Agreement, CONSULTANT shall destroy any duplicate records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion (or earlier termination) of the

Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the agency.

The failure of CONSULTANT to comply with Chapter 119, Florida Statutes, and/or the provisions set forth in this Article shall be grounds for immediate unilateral termination of the Agreement by the CITY; the CITY shall also have the option to withhold compensation due CONSULTANT until records are received as provided herein.

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

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

B. Prohibition Against Contingent Fees. In accordance with Section 287.055(6), Florida Statutes: CONSULTANT warrants CONSULTANT has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT 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 CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

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

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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 the City Clerk, and the CONSULTANT has hereunto set its hand and Seal in TRIPLICATE, the day and year first written above.

CONSULTANT:
ARCADIS U.S., INC.

By: _____

Print Name: _____

Title: Pres Exec/Sr Vice Pres CEO Gen Partner
 Mgr (Mgr-Mgd LLC) Member (Member-Mgd LLC)
 Other (must attach proof of authority): _____

License no: _____
Use entity Ch 471/481/489 license no: use individual's only if applicable.

[SEAL]

ATTEST:

CITY:
City of Tampa, Florida

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

By: _____
Bob Buckhorn, Mayor

APPROVED AS TO FORM:

Rachel S. Peterkin, Assistant City Attorney

Exhibit A
Scope of Services

Contract 18-D-00022; Engineer of Record – McKay Bay Refuse to Energy Facility

Scope of Services

Arcadis US, Inc. (Firm) shall provide the following services in each Year of the Agreement:

Task 1 – Project Management

Firm shall provide administrative support, including coordination activities, progress reports, invoices, Minority and Small Business Development reporting, resource coordination, preparation of work authorizations, scopes, budgets, and schedules. These tasks shall include:

- Project billing and status reports
- Assistance to City project management staff
- Monitoring sub-consultant performance
- Attendance of at least six (6) client meetings, as requested by the City's McKay Bay Refuse to Energy (RTE) Engineer, its successor position or designee (Engineer) to review the status of ongoing projects
- Development and distribution of agendas and meeting summaries for meetings, if required by the Engineer

Task 2 – Operations Monitoring

Firm shall provide operations monitoring of the McKay Bay Refuse to Energy Facility (Facility), Facility performance review, and oversight of compliance of Wheelabrator McKay Bay, Inc. (Operator) with the requirements of the Amended and Stated Operation and Maintenance Agreement (O&M Agreement). These tasks shall include:

On-Site Inspections and Boiler Outage Inspections

- Perform thirty-six (36) on-site inspections of the Facility, no fewer than one per month, which includes Facility outages and punchlist inspections
- Preparation and update of the rolling Facility punchlist, with the punchlist issued to the Operator quarterly
- Review the outage scopes of work and summaries to determine compliance with the O&M Agreement and good industry practice
- Perform additional seven (7) on-site inspections during turbine / generator outage years
- Preparation of inspection summary memorandums, if requested by the Engineer

Contractor Invoice Review and Annual Settlement

- Monthly review of Operator invoices for verification of the service fee and compliance with the contract, including a summary email or memorandum to the City of any issues found

- Review Seminole Electric and Tampa Electric invoices for verification of accuracy, and update electrical sales tracking sheet
- Review pass-through costs and metals recovery invoicing for compliance with the O&M Agreement and prudent industry practice
- Review annual reconciliation of Operator invoices and assist the City with developing and reviewing annual settlement package, including attendance in one (1) meeting to discuss the annual settlement

Facility Performance and Asset Preservation

- Monthly review of data logs and maintenance records for major equipment
- Review and provide comments on Facility monthly Schedule 13 reports
- Analysis of Facility performance data to determine compliance with the O&M Agreement and other applicable documents such as environmental permits, Facility operations manuals, and Facility operating procedures
- Provide observations and evaluation of the condition of the Facility relative to the O&M Agreement terms and conditions based upon monthly inspections, including outages and punchlist inspections

Operations Monitoring Reports

- Preparation of detailed Facility Annual Operations Report, including all necessary graphs, charts and appendices
- Perform the Facility annual inspection and complete inspection sheets for inclusion in the Annual Operations Report
- Perform Facility punchlist inspection(s) for inclusion in the Annual Operations Report
- Review Facility inventory, open work orders, insurance, letter of credit, and other operating requirements for compliance with the O&M Agreement

Operations Meetings

- Attend six (6) Facility O&M Meetings and assist with preparation of agendas, supplementary documentation, and meeting minutes, as requested by the Engineer.
- Attend two (2) higher level review meetings with Operator and City upper management

Task 3 – Regulatory Compliance

Firm shall monitor Facility compliance with all current permits, including preparation, renewal / modification, and maintenance of permitting and related monitoring schedule for the Facility, review and evaluation of monitoring results, assist with data submittals to regulators, and preparation of memorandums and reports to regulatory agencies summarizing and presenting the monitoring results.

These tasks shall include:

- Advising the City on active permits related to the Facility Complex

- Monitor Environmental Protection Agency, Florida Department of Environmental Protection (FDEP), and Hillsborough County Environmental Protection Commission (EPC) environmental regulations and rule-making as related to the Facility Complex and advise City
- Review solid waste division and air division inspections and reports from FDEP and EPC and provide comments / support to the City
- Provide Multi-Sector General Permit (MSGP) compliance assistance and regulatory updates and rules monitoring
- Review Discharge Monitoring Reports (DMRs) and provide assistance with submittals or waiver
- Provide surface water management system compliance assistance and conduct maintenance monitoring as needed related to the Facility's permit
- Assist with temporary regulatory approvals of specific wastes to enhance Facility processing allowances
- Revise and maintain Facility and Transfer Station Permit related plans on their appropriate renewal intervals
- Preparation of Permit Renewal Application Package(s) for submittal to FDEP and EPCHC, on their appropriate renewal intervals
- Assist in preparation of updated Stormwater Pollution Prevention Plan (SWP3)
- Provide review / comments to Facility reports and regulatory submittals including the Annual Operating Report, Semi-Annual Subpart Cb Reports, greenhouse gas (GHG) data report, quarterly CGA reports, quarterly Opacity reports, Annual Statement of Compliance, Title V required reports, and Quarterly Excess Emissions and Monitoring System Reports
- Provide review / comments and consult with City regarding air emissions and CEMS and COMS monitored parameters compliance and excursion events and notifications
- Review and evaluation of Air Pollution Control (APC) and Continuous Emission Monitoring System (CEMS) / Continuous Opacity Monitoring System (COMS) data and performance
- Review Annual Air Testing Compliance monitoring testing protocol and Annual Air Emissions Testing results and provide comments and support as required

Task 4 – Additional Services

As some events and circumstances relating to the Facility cannot be predicted, the City may from time to time request that Firm perform certain additional services not included in the above tasks and/or arising from unforeseen circumstances. Accordingly, Firm's total compensation for a given year may from time to time include a not-to-exceed amount for such additional services and/or unforeseen circumstances ("Additional Services Allowances") which shall be utilized, if at all, in the City's sole discretion. Potential additional services may include, but are not limited to:

- Provide assistance regarding the potential sale of the Operator or other concerns regarding their operational performance not included in the above tasks

- Inspection or review of Transfer Station, Scale House, or other solid waste site facilities not included in other tasks
- Efforts related to Contractor-Initiated Facility Capital Projects
- Development of regulatory compliance notifications or reports for submittal to regulatory agencies
- Future action as may be required by FDEP with regard to Pond #%, including associated permit modification, development or negotiations.
- Any other assistance specifically requested by the Engineer and not included in the above tasks

Any amounts Firm intends to charge against the Additional Services Allowance must be approved by the Engineer in advance and in writing based upon the hourly billing rates included in Exhibit B to the Agreement. Any services commenced by Firm without such prior written approval shall be provided at Firm's sole cost. Unused Additional Services Allowance amounts belong 100% to the City and shall remain with the City to be deemed deducted from Firm's total compensation for any given year during the Agreement term at the end of said year or earlier if the Agreement is prior terminated.

Firm Submittals

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

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

Schedule

Firm shall submit a written schedule for the coming year no later than October 30 of each year of the Agreement term. Firm shall perform in accordance with said schedule unless a revised written schedule is submitted by the Firm and accepted by the City as evidenced by the Engineer's prior written approval.

[End of Exhibit A]

Exhibit B
Compensation and Hourly Billing Rates
Contract 18-D-00022; Engineer of Record - McKay Bay Refuse to Energy Facility
[Year 1 - 10/01/2018 - 9/30/2019]*

Task Description	Officer / VP	Assoc. VP	Sr. Assoc/ Sr. Mgr	WCS	WCS	Earth-shine Env. Inc.	Earth-shine Env. Inc.	Earth-shine Env. Inc.	RHCA	Sr. Proj. Eng./ Prof.	Project Eng./ Prof.	Tech./ Support	Admin. / Support / Billing	Hours	Dollars
1 Project Management															
Project Oversight/Billing/Status Reports	4	20	0	2	8	6	12	0	12	36	20	0	24	144	24,679.04
Meetings/Correspondence	2	12	4	2	6	6	12	0	12	16	8	0	6	86	16,024.06
Subtotals	6	32	4	4	14	12	24	0	24	62	28	0	30	230	40,703.10
2 Operations Monitoring															
On-site Inspections and Boiler Outage Inspections	0	0	4	0	0	4	0	0	96	100	150	0	0	354	57,554.50
Contractor Invoice Review and Annual Settlement	0	0	4	0	0	24	12	0	0	40	60	0	0	140	22,972.00
Facility Performance/Asset Preservation	0	10	12	4	4	24	16	0	10	50	50	0	0	180	32,014.20
Operations Monitoring Reports	10	10	12	0	0	20	30	0	10	60	75	0	10	237	40,879.75
Operations Meetings	0	12	8	4	4	12	12	0	8	30	38	0	0	128	23,193.20
Subtotals	10	32	40	8	8	84	70	0	124	280	373	0	10	1039	176,613.85
3 Regulatory Compliance															
Permitting/Regulatory Compliance	4	12	12	0	0	8	220	10	0	84	12	0	0	362	64,384.00
Environmental Reports/Emissions Control Evaluation and Support	0	8	12	0	0	6	80	10	0	10	12	10	0	148	25,870.00
Stack Test Review, Evaluation and Support	0	6	6	0	0	6	20	10	0	6	6	0	0	60	10,968.50
Subtotals	4	26	30	0	0	20	320	30	0	100	30	10	0	570	101,222.60
4 Additional Services Allowance (Not to Exceed Amount)															
Subtotals															80,000.00
TOTAL LABOR HOURS:	20	90	74	12	22	116	414	30	148	432	431	10	40	1839	
BILLING RATE (per hour)	\$288.75	\$260.00	\$234.25	\$276.56	\$186.74	\$187.50	\$175.00	\$150.00	\$180.00	\$167.25	\$145.75	\$93.25	\$81.50		
															Total (Not to Exceed Amount)
															\$398,539

<u>Labor Classification</u>	<u>Year 1 Rates</u>
Officer/Vice President	\$288.75
Associate Vice President	\$260.00
Senior Associate/Senior Manager	\$234.25
Associate/Manager	\$207.75
Technical Specialist/Scientist	\$187.50
Senior Project Engineer/Senior Project Professional	\$167.25
Project Engineer/Project Professional	\$145.75
Engineer/Professional	\$126.75
Technical Support	\$93.25
Administrative Support	\$81.50
Earthshine Environmental - Principal	\$175.00
Earthshine Environmental - Operations Specialist/Manager	\$187.50
Earthshine Environmental - Engineer	\$150.00
RHCA	\$180.00
WCS - Principal	\$276.56
WCS - Technical Specialist	\$186.74

*This Exhibit B applies Year 1 per Article V of the Agreement.

[End of Exhibit B]

Exhibit C

Contract 18-D-00022; Engineer of Record - McKay Bay Refuse to Energy Facility

CITY OF TAMPA INSURANCE REQUIREMENTS

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

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

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

MINIMUM SCOPE AND LIMIT OF INSURANCE ¹

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

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

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

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

E. Builder's Risk Insurance for property loss exposure associated with construction/renovation/additions to buildings or structures, including materials or fixtures to be incorporated. Must be "All Risk" form with limits of no less than the project's completed value, have no coinsurance penalties, eliminate the "occupancy clause", cover Firm (together with its contractors, subcontractors of every tier, and suppliers), and name City as a Loss Payee. (IF APPLICABLE)

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

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

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

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

J. Cyber Liability Insurance where Agreement involves portals allowing access to obtain, use, or store data; managed dedicated servers; cloud hosting services; software/hardware; programming; and/or other IT services

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

and products are involved. Limits of not less than \$2M per occurrence and \$2M aggregate. Coverage sufficiently broad to respond to duties and obligations undertaken by Firm, and shall include, but not be limited to, claims involving infringement of intellectual property/copyright, trademark, trade dress, invasion of privacy violations, damage to or destruction of electronic information, information theft, release of confidential and/or private information, alteration of electronic information, extortion, virus transmission, and network security. Coverage, as applicable and with sufficient limits to respond, for breach response costs, regulatory fines and penalties, credit monitoring expenses. (IF APPLICABLE)

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

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

M. Garagekeeper/Hangerkeeper/Marina Operator Legal Liability Insurance and/or Hull/P&I Insurance where parking lot, valet, dealership, garage services, towing, etc. and/or operation of a hangar, marina, or air

plane/ship repairer, providing safe berth, air/watercraft storage/docking (on land/ in water), fueling, tours, charters, ferries, dredges, tugs, mooring, towing, boat/aircraft equipment/repair/alteration/maintenance, etc.; cover- age against liability for damage to vehicles air/watercraft, their machinery in Firm's care, custody, or control both private & commercial. Limits at least equal to greater of \$1M, value of max number of vehicles that may be in Firm's custody, or of most costly object in Firm's custody. (IF APPLICABLE)

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

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

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

ADDITIONAL REQUIREMENTS

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

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

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

Contract Administration Department, 306 E Jackson St, Tampa, FL 33602 Purchasing Department, 306 E Jackson Street, Tampa, FL 33602

Other: _____

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

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

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

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

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

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

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

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

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

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

Exhibit D

Contract 18-D-00022; Engineer of Record - McKay Bay Refuse to Energy Facility



Failure to Complete, Sign and Submit Both Forms 10 & 20 SHALL render the Bid or Proposal Non-Responsive

Page 3 of 4 – DMI Solicited/Utilized Schedules
City of Tampa – Schedule of All To-Be-Utilized Sub-(Contractors/Consultants/Suppliers)
(FORM MBD-20)

Contract No.: 18-D-00022 Contract Name: Engineer of Record – McKay Bay Refuse to Energy Facility
 Company Name: Arcadis U.S., Inc. Address: 3109 W. Dr. Martin Luther King Jr. Blvd, Suite 350, Tampa FL, 33607
 Federal ID: 57-0373224 Phone: (954)525-2499 Fax: (813)903-9115 Email: leah.richter@arcadis.com

Check applicable box(es). Detailed Instructions for completing this form are on page 4 of 4.

See attached list of additional Firms Utilized and all supplemental information (List must comply to this form)

Note: Form MBD-20 must list ALL subcontractors To-Be-Utilized including Non-minority/small businesses

No Subcontracting/consulting (of any kind) will be performed on this contract.

No Firms are listed to be utilized because: _____

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

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

S = SLBE W=WMBE O =Neither	Company Name Address Phone, Fax, Email	Type of Ownership (F=Female M=Male) BF BM = African Am. HF HM = Hispanic Am. AF AM = Asian Am. NF NM = Native Am. CF CM = Caucasian	Trade, Services, or Materials NIGP Code Listed above	\$ Amount of Quote. Letter of Intent (LOI) if available	Percent of Scope or Contract %
S / W 32-0055720	Earthshine Environmental, Inc. 19046 Bruce B Downs Blvd., #237 Tampa FL, 33647-2434 P (813) 545-7067, Email: tstankunas@earthshineinc.com	CF	925	\$98,700	31.0%
S / W 59-3046707	RHC and Associates, Inc. P.O. Box 4505 Tampa, FL 33677 P (813) 254-0907, Email: jrobin19@tampabay.rr.com	BM	925	\$26,640	8.4%
O 41-2182717	Innovative Waste Consulting Services, LLC 3720 NW 43rd St, Suite 103 Gainesville, FL 32606 P (352) 331-4828x1, Email: pjain@iwcs.biz	AM	925	\$7,427	2.3%

Total ALL Subcontract / Supplier Utilization \$ **132,767**

Total SLBE Utilization \$ **125,340**

Total WMBE Utilization \$ **125,340**

Percent SLBE Utilization of Total Bid/Proposal Amt. **39.4%** Percent WMBE Utilization of Total Bid/Proposal Amt. **39.4%**

It is hereby certified that the following information is a true and accurate account of utilization for sub-contracting opportunities on this Contract.

Signed: Leah K. Richter Name/Title: Leah K. Richter, PE / Assoc. Vice President Date: 10/4/2018

Failure to Complete, Sign and Submit Both Forms 10 & 20 SHALL render the Bid or Proposal Non-Responsive
Forms must be included with Bid / Proposal