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RESOLUTION NO. 2019 - 531

A RESOLUTION APPROVING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$3,000,000 BETWEEN THE CITY OF TAMPA AND KCI TECHNOLOGIES, INC., IN CONNECTION WITH CONTRACT 19-D-00023; UTILITY LOCATING WATER DEPARTMENT PROJECT; 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 KCI Technologies, Inc., ("Consultant") to provide professional services in connection with Contract 19-D-00023; Utility Locating Water Department, ("Project") 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 professional 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 between the City of Tampa and KCI Technologies, Inc., in connection with Contract 19-D-00023; Utility Locating Water Department 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. Approval of an Agreement for Utility Locating Services in FY2019, controlled by requisition, and in FY20, FY21, and FY22, controlled by requisition, subject to annual appropriation, for an amount total not to exceed \$3,000,000, for use by the Water Department within the Water Operations Fund.

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 27 2019

ATTEST: Shirley Fox-Krawls
CITY CLERK/DEPUTY CITY CLERK

[Signature]
CHAIRMAN/CHAIRMAN PRO-TEM CITY COUNCIL

PREPARED AND APPROVED AS TO
LEGAL SUFFICIENCY BY:

E/S
JUSTIN VASKE
ASSISTANT CITY ATTORNEY

12619-26

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT (“Agreement”) made and entered into at Tampa, Florida, as of the ____ day of _____, 2019, which is the date Resolution No. _____ was adopted authorizing execution of this Agreement, by and between the CITY OF TAMPA, a municipal corporation of the State of Florida, (“CITY”), the address of which is 315 East Kennedy Boulevard, Tampa, Florida 33602, and KCI Technologies, a/an Delaware Corporation authorized to do business in the State of Florida, (“CONSULTANT”), the address of which is 10401 Highland Manor, Suite 120, Tampa, FL 33610.

WITNESSETH:

WHEREAS, the CITY desires to engage the CONSULTANT to perform certain professional services pertinent to such work which shall be referred to as Contract 19-D-00023; Utility Locating Services Water Department (“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/consultant 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 CITY shall provide available plans and specifications of existing construction, if any, applicable to the Project.

III. PERIOD OF SERVICE

A. The CONSULTANT shall begin work promptly after receipt of a fully executed copy of this Agreement and a Notice to Proceed. This Agreement shall remain in force until the completion of all construction for the Project.

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

The CITY shall compensate the CONSULTANT for the services performed with this Agreement a lump sum (by task) of \$3,000,000 to be billed in accordance with **Exhibit B**.

VI. PAYMENT

Payments shall be made upon presentation of the CONSULTANT'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. 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 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 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.

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.

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 of Tampa 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 of Tampa 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 the 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, the Firm expends more than \$750,000 in federal funds in an operating year from this and other federal grants, the 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: 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, the 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 the 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 \$750,000 during an operating year, the 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.

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 a 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 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 appropriates. 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.

XXX. SCRUTINIZED COMPANIES

Section 287.135, Florida Statutes, prohibits agencies or local governmental entities from contracting with companies for (i) goods or services of any amount on either the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel and (ii) goods or services of \$1,000,000 or more that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes, or is engaged in business operations in Cuba or Syria. A company that is on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel or is engaged in business operations in Cuba or Syria 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 of any amount. A company that is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria 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 of \$1,000,000 or more. FIRM certifies that it is not in violation of Section 287.135, Florida Statutes. If the City determines the FIRM submitted a false certification, or has been placed on the Scrutinized Companies Activities in the Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel or been engaged in business operations in Cuba or Syria, the City shall have the option to terminate this Agreement or maintain it subject to the conditions of Section 287.135 of the Florida Statutes.

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 of Tampa 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.

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

**CONSULTANT:
KCI TECHNOLOGIES, 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: _____
Jane Castor, Mayor

APPROVED AS TO FORM:

Justin R. Vaske, Assistant City Attorney

Exhibit A
Utility Locating Services
Contract 19-D-00023

KCI Technologies, Inc. ("Firm") has been requested to provide the following services to the City of Tampa ("City") for utility locating services that include subsurface utility location using vacuum excavation or other geophysical techniques, professional land surveying of utilities, meter box location and administrative support.

Firm shall perform the tasks outlined below:

Task 1.0 Utility Locating (Designating) Services:

Firm shall mark (designate) underground water and reclaimed water facilities owned and documented by the City, as stipulated by Florida Statutes and supervised by Sunshine 811. KCI shall respond to Sunshine 811 ticket requests via the IRTHNET system.

Firm shall locate City facilities using electromagnetic geophysical prospecting equipment intended for utility designation.

Firm shall mark City facilities using the approved American Public Works Association color scheme. Firm will apply the proper color-coded marker (paint or flag) directly above the centerline of the water main.

Firm shall respond to emergency locate requests within four (4) hours of receiving notification and shall communicate with City's representative and site contractors in order to resolve the emergency.

Task 2.0 Administrative Call Response Services:

Firm shall provide administrative support to receive, respond to, and resolve questions received from Sunshine 811 users to a publicized phone number - once every weekday. Each message will receive a call back within twenty four (24) hours of Firm receiving the message and any associated Firm locating action(s) required to resolve the question will be enacted. The calls will be answered in the context of the City's responsibilities regarding marking of water infrastructure as defined by the Statute and Sunshine 811.

Task 3.0 Subsurface Utility Locating Services:

At the City's request, Firm shall perform subsurface utility investigation services using vacuum excavation methods and/or other geophysical prospecting techniques to expose underground utilities and to identify the vertical location of the target facility.

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As stipulated by Sunshine 811, prior to any excavation activities Firm shall call in a Sunshine 811 excavation ticket for the area requested by the City and follow all applicable Sunshine 811 procedures.

Firm shall utilize air vacuum excavation methods to expose facilities the City's requested be located and provide a report detailing the findings. If additionally requested by the City for these locates, Firm shall provide surveyed location of the exposed utilities as documented by a licensed professional land surveyor.

Firm shall place a durable marker over the center of the exposed utility. Its size, material and manual depth will be documented.

Firm shall provide the personnel, equipment and materials to perform this service.

Depending on the nature and extent of subsurface locating service(s) requested, and with City concurrence, Firm will provide these services with either a 2- or 3-man crew as follows:

- 2-man Utility Locating Crew will consist of: 1-crew lead, 1-laborer and 1-air vacuum excavation vehicle, various simple hand-tools to perform test-hole excavation, pavement cutting, backfill, pneumatic tamping and temporary pavement restoration.
- 3-man Utility Locating Crew will consist of: 1-crew lead, 2-laborers and 1 air vacuum excavation vehicle, various simple hand-tools to perform test-hole excavation, pavement cutting, backfill, pneumatic tamping and temporary pavement restoration.

Task 4.0 Professional Land Surveying Services:

Firm shall perform land surveying services as requested by the City following surveying technical standards as stipulated by Florida Statutes. Site specific survey services shall be discussed and negotiated on a task specific basis and through Firm's project manager for this Contract. Deliverables will meet the criteria outlined below unless otherwise specified by the City.

PROVISION OF TEMPLATE

The City of Tampa will provide a Survey drawing template with all accepted Layers, Linetypes, Textstyles, Dimension and Multileader Styles, Symbols (Blocks) and Civil 3D Styles (when applicable). The layers provided in the template have descriptions included and drawing entities shall be assigned to their corresponding layers. Deliverables to the City shall be in agreement with these requirements and with the template provided.

- Drawing Layers & Symbols: Drawings shall be done using layers (Existing Layers in the Layer Properties) & symbols (blocks) provided in the Template.

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- Text & Labels (Callouts): All text shall be MTEXT (Existing) and labeling shall be done using Multileaders (Existing). All text and labeling shall be annotative. Align all labels and text in Plan View as necessary to ensure plan legibility.
- Dimensions: Dimension Right-of-Way (R/W) width with dimension style (ROW) provided. Dimension Baseline to R/W lines and street width (Existing).

FINAL PRODUCT

- AutoCAD and/or Civil 3D drawings shall be saved in the latest drawing format (Surveyor to coordinate with City for versioning) and shall be delivered in an eTransmittal which shall include all references used to create the drawings.
- Plans shall be geo-referenced to the State of Florida Plane Coordinate System, Traverse Mercator, West Zone of 1983 in feet (NAD 83-90 FT). Vertical elevations shall be referenced to North American Vertical Datum of 1988 (NAVD 88).
- The Civil 3D drawings shall include all pertinent Surfaces, Points, Alignments, Pipe Networks, Profiles and Sections and related features that support these items. The Survey linework shall be two-dimensional (2D) lines and polylines with zero (0) elevation. Survey Figures will not be accepted as linework for the existing Survey. Include all Data References used to create the Civil 3D drawings.

DELIVERABLES

- A copy of the Base Map (Survey of all existing conditions as detailed in this document) in AutoCAD .dwg format as detailed in the Final Product. The drawing shall be formatted to show viewports and annotative texts at a scale no smaller than 1"=50'.
- One (1) Electronic Copy in Portable Document Format (PDF) of the final drawing.
- One (1) Digitally-Signed and Sealed PDF Copy of the final drawing. If this format cannot be provided, one (1) Signed and Sealed hard copy of the final drawing will be accepted.

PLAN VIEW

- Benchmark/Temporary Benchmark (TBM) Circuits: TBMs used for vertical control shall be within sight of distance and not more than 200' (feet) from the Baseline.
- Stationing for Survey Baselines typically shall be established on the centerline of the nearest intersecting street (i.e., STA. 10+00 = Centerline of nearest street) with nails-and-caps in the street and (where possible) referenced to physical features (manhole lids, valve boxes, utility poles, etc.) such that the Baseline can be easily re-established in the field by our Contractor or working crew during construction. It is recommended (where possible) for Baselines to be parallel to the R/W and located at the center of the R/W or the Roadway.

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- Location of beginning and end of Survey Baselines shall be geo-referenced as stated above with Northings and Eastings up to two (2) decimal places. The length and bearing of each segment of Baselines (lines and curves) shall be denoted. It is recommended to include line and curve tables. Include Station Equations @ intersecting Baselines.
- Intersections: Survey each way of the intersection to 100' (feet) beyond intersecting Rights-of-Way.
- Direction of stationing along Survey Baseline: Stationing shall advance from West to East and/or South to North. Stationing shall read from left to right on the sheet and shall override the previous directive if applicable.
- Identify all Rights-of-Way, roads, easements, ditches and waterways within the project limits.
- Property Lines: Show and Label (callout).
- Fronts of buildings: Show all building fronts. Estimate location only (location by transit not required). Obtain and show addresses.
- Driveways and Sidewalks: Show, label and include type of material.
- Detail Survey: Show aboveground features, mailboxes, poles, guy wires, telephone/cable/fiber optic/traffic risers and boxes, trees and shrubs, etc.
- Utilities Survey with R/W: Determine and show all existing utilities.
- Pipes: Label all pipeline sizes and material (where applicable).
- Valves: Elevation of top of valve "operating nut". Identify & specify utility of valve. Elevation @ center of valve box covers.
- Meters: Identify & specify meter type. When existing COT meter boxes are present, provide meter serial number.
- Sanitary Sewer manholes and clean-outs:
 - Elevation @ center (rim) of manhole covers.
 - Pipe sizes with invert elevations and orientation.
- Storm Sewer manholes, inverts and culverts:
 - Elevation @ center (rim) of manhole covers.
 - Elevations @ center (rim or grate) of inlet structures.
 - Culverts @ top of wall and invert of pipe.
 - Pipe sizes with invert elevations and orientation.

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- If Pipe Networks were used, provide pipes in section view with callout indicating utility, size and material.

ELEVATIONS-SPOT GRADES (POINTS):

- Provide Elevations (points) at 50' intervals.
- Elevations @ center of pavement, edge of pavement, curbs and sidewalks, and R/W.
- If ditch is present, obtain elevations at top of bank, toe of slope, and center of ditch.

DRAFTING LAYER STANDARDS

- Drafting Layers shall follow the National CADD Standards format. For design, it is a two- digit, four-digit (max), four-digit (max) & four-digit (max) layer name. For reference, it is a two-digit & reference identification layer name.
 - B0 (Base-Zero (General)) = A general, paper space, or reference layer.
 - Be (Base-Existing) = Existing linework and text in the reference (based on survey) file.
 - Ge (Grading-Existing) = Existing grading linework and text in the reference file.
 - Le (Landscape-Existing) = Existing landscape linework and text in the reference file.
 - Ue (Utility-Existing) = Existing utility linework and text in the reference file.

	Name	Color	Linetype Description	Plot Style
0	white	Continuous	Color_7	0
B0-Blocks	white	Continuous	Color_7	Base: General: Paper Space Blocks
B0-Border	yellow	Continuous	Color_2	Sheet: Border Linework
B0-Border-Txt	red	Continuous	Color_1	Sheet: Border Text
B0-Gnrl-Mask	250	Continuous	Color_250	Base: General: Masking:
B0-Image	151	Continuous	Color_151	Images, PDFs, TIFFs, JPEGs
B0-Invisible	186,226,253	Continuous	Color_254	No Plot: Viewports and Block Information
B0-Mask	250	Continuous	Color_250	Blocks: 250 color for white hatch
B0-Rev	cyan	Continuous	Color_4	Revision Clouds
B0-Text	white	Continuous	Color_7	Proposed: Text, Notes, Callouts (On Paper Space)
B0-Xref	151	Continuous	Color_151	External References
Be-Bldg	181	Continuous	Color_181	Existing: Buildings
Be-Bldg-Text	183	Continuous	Color_183	Existing: Building: Text
Be-Dims	65	Continuous	Color_65	Existing: Text: Dimensions
Be-Ease	white	HIDDEN2	Color_7	Existing: Easements
Be-Ease-Text	magenta	Continuous	Color_6	Existing: Easement: Text
Be-Feat	52	Continuous	Color_52	Existing: Features (i.e. Fences, Mailboxes, Benches,
Signs, etc.) Be-Feat-Text		53	Continuous	Color_53 Existing: Feature: Text (Generic)
Be-Prop	157	MDPROP	Color_157	Existing: Internal Property Lines
Be-Prop-Adj	147	SMPROP	Color_147	Existing: Adjacent Property Lines
Be-Prop-Mon	147	Continuous	Color_147	Existing: Internal Property Line: Monumentation
Be-Prop-Row	146	LEGALROW	Color_146	Existing: Internal Property Line: Rights-of-way
Be-Prop-Text	163	Continuous	Color_163	Existing: Property Text

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Be-Pvmt	red	Continuous	Color_1	Existing: Pavement (General)
Be-Pvmt-Asph-Htch	255	Continuous	Color_255	Existing: Asphalt Pavement Hatch
Be-Pvmt-Htch	252	Continuous	Color_252	Existing: Sidewalk & Driveway Hatches
Be-Pvmt-Text	magenta	Continuous	Color_6	Existing: Pavement: Text (Generic)
Be-Pvmt-Walk	magenta	Continuous	Color_6	Existing: Sidewalks
Be-Road-Cntl	55	CENTER	Color_55	Existing: Road: Centerlines
Be-Road-Mrkg	135	Continuous	Color_135	Existing: Road: Markings
Be-Road-Text	143	Continuous	Color_143	Existing: Road: Text
Be-Text	65	Continuous	Color_65	Existing: Text: Generic
Be-Wtld	125	WETLAND	Color_125	Existing: Wetlands
Be-Wtld-Buff	154	MDDASH	Color_154	Existing: Wetland: Flags
Be-Wtld-Htch	111	Continuous	Color_111	Existing: Wetland: Hatches
Be-Wtld-Text	113	Continuous	Color_113	Existing: Wetland: Text
Be-Wtrw	155	WATER-EDGE	Color_155	Existing: Waterways (i.e. Edge of water, Ponds, Rivers, etc.)
Defpoints	white	Continuous	Color_7	Defpoints
Ge-Grad	56	EXSMDASH	Color_56	Grading: Existing: Contours (i.e. 1' or 2')
Ge-Grad-Indx	96	CONTOUR-INDEX	Color_96	Grading: Existing: Contours (Indexed i.e. 5' or 10')
Ge-Grad-TOB	96	BERM	Color_96	Grading: Existing: Top of Bank
Ge-Grad-TOE	56	DASHDOT2	Color_56	Grading: Existing: Toe of Slope
Ge-Spot	55	Continuous	Color_55	Grading: Existing: Spots
Ge-Swle	125	WATER-STREAM	Color_125	Grading: Existing: Swales
Ge-Text	55	Continuous	Color_55	Grading: Existing: Text (i.e. slopes, swales, etc.)
Le-Tree	67	Continuous	Color_67	Landscape: Existing: Trees
Le-Tree-Text	65	Continuous	Color_65	Landscape: Existing: Tree: Text
Ue-Catv	71	EXIST-C	Color_71	Utilities: Existing: Cable TV
Ue-Catv-Text	72	Continuous	Color_72	Utilities: Existing: Cable TV: Text
Ue-Elec	30	EXIST-E	Color_30	Utilities: Existing: Electric
Ue-Elec-Text	31	Continuous	Color_31	Utilities: Existing: Electric: Text
Ue-Fuel	34	EXIST-FUEL	Color_34	Utilities: Existing: Fuel (i.e. Petroleum Product Lines, etc.)
Ue-Gas	34	EXIST-G	Color_34	Utilities: Existing: Gas
Ue-Gas-Text	35	Continuous	Color_35	Utilities: Existing: Gas Text
Ue-Misc	60	EXIST-MISC	Color_60	Utilities: Existing: Miscellaneous
Ue-Ohw	30	EXIST-OH	Color_30	Utilities: Existing: Overhead Wires (Type Unknown)
Ue-San	40	EXIST-S	Color_40	Utilities: Existing: Sanitary Sewer
Ue-San-Text	41	Continuous	Color_41	Utilities: Existing: Sanitary Sewer: Text
Ue-Stm	111	SMPIPE	Color_111	Utilities: Existing: Storm Sewer
Ue-Stm-Text	112	Continuous	Color_112	Utilities: Existing: Storm Sewer: Text
Ue-Tele	91	EXIST-T	Color_91	Utilities: Existing: Telephone
Ue-Tele-Text	92	Continuous	Color_92	Utilities: Existing: Telephone: Text
Ue-Text	red	Continuous	Color_1	Utilities: Existing: Text (Generic)
Ue-Traf	32	EXIST-TRAF	Color_32	Utilities: Existing: Traffic (i.e. Signal Wires & Loop Detectors)
Ue-Traf-Text	33	Continuous	Color_33	Utilities: Existing: Traffic: Text
Ue-Unk	60	EXIST-UNK	Color_60	Utilities: Existing: Unknown
Ue-Wtr	160	EXIST-W	Color_160	Utilities: Existing: Water: Mains
Ue-Wtr-Fire	164	EXIST-F	Color_164	Utilities: Existing: Water: Fire Lines
Ue-Wtr-Lat	160	Continuous	Color_160	Utilities: Existing: Water: Laterals
Ue-Wtr-Recl	166	EXIST-RWL	Color_166	Utilities: Existing: Water: Reclaimed
Ue-Wtr-Text	162	Continuous	Color_162	Utilities: Existing: Water: Text

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Professional land surveyor services shall be provided by a one- man, two- man, or 3-man crew as agreed by Firm and the City when the survey service is requested:

- One-Man Crew will consist of: 1-Crew Chief, 1-Robotic Total Station survey instrument 1-GPS unit, and 1-Fully equipped survey vehicle with hand tools required to perform standard field surveying task such as tri-pods, level rods, machetes, metal detector, survey stakes, signs and safety gear.
- Two-Man crew will consist of: 1-Crew Chief, 1- Instrument-Man, 1- Robotic Total Station survey instrument, 1- Automatic Level , 2-GPS units and 1-Fully equipped survey vehicle with hand tools required to perform standard field surveying task such as tri-pods, level rods, machetes, metal detector, survey stakes, signs and safety gear.
- Three-Man crew will consist of: 1-Crew Chief, 1- Instrument-Man, 1- Rodman, 1-Robotic Total Station survey instrument, 1- Automatic Level , 2-GPS units and 1-Fully equipped survey vehicle with hand tools required to perform standard field surveying task such as tri- pods, level rods, machetes, metal detector, survey stakes, signs and safety gear.

Task 5.0 Meter Box Location:

When directed by the City's representative, Firm shall locate and mark the locations of meter boxes the City has been unable to find. Firm will use City-provided meter service cards, Electromagnetic (EM) pipe and cable locator, Ground Penetrating Radar (GPR) techniques, and metal detecting devices to locate the meters boxes. Firm shall mark the meter box locations using the approved American Public Works Association color scheme and will install an above ground marker (provided by the City) on the curb, pointing directly at the located meter box.

Firm will provide the City with a meter location report listing the meter number and its reading, a field sketch of the location of the meter (using 3 swing-ties associating the meter with current field conditions), and pictures of the meter.

Firm shall provide the personnel, equipment and materials to perform this service.

END SCOPE OF SERVICES

KCI TECHNOLOGIES, INC.

Exhibit B
 Utility Locating Services
 Contract 19-D-00023
 Hourly Rates

Classification	Loaded Rates**			
	Current Rates	FY20*	FY21*	FY22*
Sue Manager	\$157.27	\$160.42	\$163.63	\$166.90
Designator	\$70.35	\$71.76	\$73.19	\$74.66
Water Meter Locator	\$70.35	\$71.76	\$73.19	\$74.66
2-Man Locating Crew		\$218.30	\$222.67	\$227.12
3-Man Locating Crew	\$285.36	\$291.07	\$296.89	\$302.83
Admin/Clerical	\$96.76	\$98.69	\$100.70	\$102.71
Admin/One Call Phone Response		\$71.76	\$73.19	\$74.66
1-Man Survey Crew		\$ 90.00	\$91.80	\$93.64
2-Man Survey Crew	\$106.43	\$108.56	\$110.73	\$112.95
3-Man Survey Crew	\$141.72	\$144.56	\$147.44	\$150.39
Professional Land Surveyor	\$234.32	\$239.01	\$243.79	\$248.67
Survey CADD Technician	\$86.35	\$88.08	\$89.84	\$91.64
Additional Rodman	\$35.28	\$35.99	\$36.71	\$37.44

*City Fiscal Year (FY) basis. Rates take effect on Oct 1 of year prior to the column heading year.

**Rates increased by 2% from previous FY rates

Compensation: For performing the services identified within Exhibit A, an upset limit amount of \$3,000,000 has been established as the fee for the work described. Invoices will be submitted monthly.

Exhibit C

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, subtenants, 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 the 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 25 03 or 25 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 (CPrL)/ 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 rail road'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.; coverage 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, 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

**Page 1 of 2 –DMI Payment
City of Tampa – DMI Sub-(Contractors/Consultants/Suppliers) Payments
(FORM MBD-30)**

Partial Final

Contract No.: _____ WO#,(if any): _____ Contract Name: _____
 Contractor Name: _____ Address: _____
 Federal ID: _____ Phone: _____ Fax: _____ Email: _____
 GC Pay Period: _____ Payment Request/Invoice Number: _____ City Department: _____

√ Total Amount Requested for pay period: \$ _____ Total Contract Amount(including change orders):\$ _____

↙ -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 S = SLBE

Type	Company Name Address Phone & Fax	Total Sub Contract Or PO Amount	Amount Paid To Date	Amount To Be Paid For This Period
Trade/Work Activity			Amount Pending Previously Reported	Sub Pay Period Ending Date
<input type="checkbox"/> Sub <input type="checkbox"/> Supplier	Federal ID			
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$
			\$	\$

(Modifying This Form or Failure to Complete and Sign May Result in Non-Compliance)

Certification: I hereby certify that the above information is a true and accurate account of payments to sub – contractors/consultants on this contract.

Signed: _____ Name/Title: _____ Date: _____



Page 2 of 2 – DMI Payment
Instructions for completing The DMI Sub-(Contractors/Consultants/ Suppliers) Payment Form
(Form MBD-30)

This form must be submitted with all invoicing or payment requests where there has been subcontracting rendered for the pay period. If applicable, after payment has been made to the subcontractor, “Waiver and Release of Lien upon Progress Payment”, “Affidavit of Contractor in Connection with Final Payment”, or an affidavit of payment must be submitted with the amount paid for the pay period. The following will detail what data is required for this form. The instructions that follow correspond to the headings on the form required to be completed. **(Modifying or omitted information from this form may result in non-compliance).**

- **Contract No.** This is the number assigned by the City of Tampa for the bid or proposal.
- **W.O.#** If the report covers a work order number (W.O.#) for the contract, please indicate it in that space.
- **Contract Name.** This is the name of the contract assigned by the City of Tampa for the bid or proposal.
- **Contractor Name.** The name of your business.
- **Address.** The physical address of your business.
- **Federal ID.** A number assigned to a business for tax reporting purposes.
- **Phone.** Telephone number to contact business.
- **Fax.** Fax number for business.
- **Email.** Provide email address for electronic correspondence.
- **Pay Period.** Provide start and finish dates for pay period. (e.g. 05/01/13 – 05/31/13)
- **Payment Request/Invoice Number.** Provide sequence number for payment requests. (ex. Payment one, write 1 in space, payment three, write 3 in space provided.)
- **City Department.** The City of Tampa department to which the contract pertains.
- **Total Amount Requested for pay period.** Provide all dollars you are expecting to receive for the pay period.
- **Total Contract Amount (including change orders).** Provide expected total contract amount. This includes any change orders that may increase or decrease the original contract amount.
- **Signed/Name/Title/Date.** This is your certification that the information provided on the form is accurate.
- **See attached documents.** Check if you have provided any additional documentation relating to the payment data. Located at the bottom middle of the form.
- **Partial Payment.** Check if the payment period is a partial payment, not a final payment. Located at the top right of the form.
- **Final Payment.** Check if this period is the final payment period. Located at the top right of the form.

The following instructions are for information of any and all subcontractors used for the pay period.

- **(Type) of Ownership.** Indicate the Ethnicity and Gender of the owner of the subcontracting business or SLBE.
- **Trade/Work Activity.** Indicate the trade, service, or material provided by the subcontractor.
- **SubContractor/SubConsultant/Supplier.** Please indicate status of firm on this contract.
- **Federal ID.** A number assigned to a business for tax reporting purposes. This information is critical in proper identification of the subcontractor.
- **Company Name, Address, Phone & Fax.** Provide company information for verification of payments.
- **Total Subcontract Amount.** Provide total amount of subcontract for subcontractor including change orders.
- **Amount Paid To Date.** Indicate all dollars paid to date for the subcontractor.
- **Amount Pending, Previously Reported.** Indicate any amount previously reported that payments are pending.
- **Amount To Be Paid for this Period.** Provide dollar amount of dollars requested for the pay period.
- **Sub Pay Period Ending Date.** Provide date for which subcontractor invoiced performed work.

Forms must be signed and dated or will be considered incomplete. The company authorized representative must sign and certify the information is true and accurate. Failure to sign this document or return the document unsigned can be cause for determining a company is in non-compliance of Ordinance 2008-89.

If any additional information is required or you have any questions, you may call the Minority Business Development Office at (813) 274-5522.

