

December 19, 2019

City of Cocoa: Purchasing Division
Attn: Heath Hancer, Procurement Manager
65 Stone Street,
Cocoa, FL 32922
hhancer@cocoafll.org

Formal Protest re: Bid No. B-20-08-COC Award

The affected Protestor, RUSH Marine, LLC, 6285 Riverfront Center Blvd, Titusville, FL 32780 (“Protestor” or “RUSH”), by and through the undersigned counsel, hereby files its formal protest within 10 days of its Notice of Intent to Protest dated December 16, 2019. This formal protest relates to the contract award of Bid No. B-20-08-COC to Canaveral Construction Co. (“CCC”) entitled “Cocoa Riverfront Park Promenade Improvements” (the Project) at a December 11, 2019 City Council Meeting.

Facts Upon Which Protest is Based

On, or about, November 1, 2019, the City of Cocoa (“City”) issued Intent to Bid No. B-20-08-COC for Cocoa Riverfront Park Promenade Improvements (“ITB”) which is attached hereto as Exhibit A. The ITB in section 00299-Check list for sealed bids included the requirement that “[e]ach bid submitted shall include all Sections listed (in order).”¹ The check list included all of the items on the bid tabulation sheet (“BTS”), which is attached hereto as Exhibit B. According to the ITB, City will “award the Agreement to the lowest

¹ ITB 12.

most responsive and responsible bidder who submits the bid meeting specifications most advantageous to the City.”²

The BTS shows that there were 6 bidders. CCC had a bid of \$952,909 bid. However, the BTS shows³ that CCC’s bid was nonresponsive since it did not include the Instruction to Bidders, the Form of the Agreement or the Performance and Payment Bond. RUSH had a bid of \$989,618, and by submitting all the required items, was the lowest most responsive and responsible bid. RUSH’s bid is included here as Exhibit C.

The required Form of the Agreement, which CCC did not submit as part of its bid response, addressed multiple protections for City to include terms that included the scope of work, liability insurance requirements, attorney’s fees provisions, federally required procurement clauses and a project completion date well in advance of the City’s Fourth of July celebration.⁴

The bids were opened December 5, 2019 and on December 11, 2019 City Council awarded the bid to CCC.

Argument

I. CCC’s bid was materially unresponsive in violation of Fla. Stat. § 255.20 and City Purchasing Policies

Fla. Stat. § 255.20(d)1, which governs here states that “the contract must be awarded to the lowest qualified and responsive bidder in accordance with the applicable county or municipal ordinance or district resolution and in accordance with the applicable

² ITB 15.

³ The BTS marks items with either a Y or N. A “Y” indicates that the item was submitted; an “N” indicates that the item was not submitted.

⁴ See *generally* ITB 41-60.



contract documents.” In defining the term responsive bidder, courts have held that the definition of “responsive bid” found at § 255.248 (7) similar enough to provide a suitable definition for the term responsive bid used in § 255.20.⁵ There, the term is defined as “a bid or proposal, or reply submitted by a responsive and responsible lessor (or bidder), which conforms in all material respects to the solicitation.” Courts have held that a bid is responsive if it is submitted on the correct forms and contains all information required by the bidding entity.⁶ Awarding a contract to someone other than the bidder with the lowest responsible and responsive bid would “unfairly circumvent the intent of the competitive bidding standards.”⁷

City Purchasing Policy (“CPP”) 12.1 D. holds that “Bid awards shall be made to the lowest and best (most responsive) bidder whose bid or proposal meets or is closest to the specifications, requirements or criteria set forth in the Invitation to Bid.”⁸ A Responsive Bidder is defined by CPP 16.1 as a “bidder who has submitted a bid that conforms to all material aspects of the requirements set forth in the ITB.”⁹

Additionally, CPP defines Lowest and Best Bidder as a “bidder whose offer best responds in price, quality, fitness and capacity to the requirements of the ITB as specified by the City of Cocoa and as determined at the sole discretion of the City.”¹⁰ The ITB itself states “Each bid shall include all sections listed in ... checklist.”¹¹ This “shall” wording does

⁵ *American Engineering and Development Corp. v. Town of Highland Beach*, 20 So. 3d 1000, 1000-01 (Fla. 4th DCA 2009).

⁶ *Intercontinental Properties, Inc. v. State Dept. of Health and Rehabilitative Services*, 606 So. 2d 380 (Fla. 3rd DCA 1992).

⁷ *City of Sweetwater v. Solo Const. Corp.*, 823 So. 2d 798, 803 (Fla. 3rd DCA 2002)

⁸ CPP 82.

⁹ CPP 114.

¹⁰ CPP 114.

¹¹ ITB 12.



not give any discretion to City to make any deviations from this requirement. Furthermore, when read together with the terms that allow City to “waive any minor irregularity or technicality in bids received”,¹² CCC’s oversight of failing to include three of the required documents does not amount to a minor deficiency, irregularity or technicality. It is a material and substantive issue with the bid. The bids must be compared together on the same basis. If work is bid out, but there are different standards for the bidders, then the modification could favor the bidder who received the modification.¹³ Here, CCC’s bid is cannot be compared on the same basis as other bids that did submit all required documents. Comparing the bid amounts are, therefore, not comparing apples to apples but comparing apples to oranges.

The case law is clear that failing to include the three required documents in CCC’s bid was not a “minor irregularity or technicality.”¹⁴ In one case, a court has held that failure to acknowledge receipt of addenda was a minor irregularity or technicality that the governmental entity could waive.¹⁵ In another case, the Florida Supreme Court has stated that in order for a governmental entity to waive minor irregularities or technicalities, the bidder must substantially comply with the Invitation to Bid.¹⁶ In one case, it was held that a bid was not responsive where the bidder did not meet the bid specifications by failing to list projects performed for municipalities or projects on which it was the prime contractor

¹² ITB 10.

¹³ *Harry Pepper & Associates, Inc. v. City of Cape Coral*, 352 So. 2d 1190 (Fla 2nd DCA 1977).

¹⁴ ITB 10 (“As the best interest of the City of Cocoa may require, the right is reserved to ... waive any minor irregularity or technicality in bids received.

¹⁵ *Charlotte County v. Grant Med. Transp., Inc.*, 68 So. 3d 920, 923 (Fla. 2d DCA 2011)

¹⁶ *Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So.2d 505, 507 (Fla.1982)



as was required by the bidding specifications.¹⁷ These cases do not support City's waiver of CCC's three shortcomings as a "minor irregularity or technicality."

Here, CCC's bid was unresponsive and City cannot award CCC the contract. CCC's bid package did not contain the Instruction to Bidders, Form of Agreement, nor the Performance and Payment Bond. Florida Statutes, case law and City Policy are clear that these procurement rules must be followed and that decisions cannot be made arbitrarily to circumvent or waive the rules. Furthermore, CCC did not substantially comply with the ITB. By not including three important and material documents in their solicitation, CCC's bid was nonconforming to the mandatory requirements requests set forth in the ITB. CCC's failure to include the three required documents is no minor irregularity given the nature of the missing documents.

II. CCC's bid was not in the best interest of the City as required by City Purchasing Policies

City Purchasing Policies require that the winning bid be in the best interest of the City.¹⁸ The Form of Agreement contained numerous clauses that were clearly intended to protect the City's best interests. However, CCC did not submit the Form of Agreement with their bid. Florida Courts are clear that the submitting of a bid is the submitting of an offer and that the act of acceptance by the governmental unit is the action that creates a valid contract.¹⁹ Another court has held that acceptance of a bid results in a contract even

¹⁷ 20 So. 3d at 1001.

¹⁸ CPP 82.

¹⁹ *Wood-Hopkins Contracting Co. v. Roger J. Au & Son, Inc.*, 354 So. 2d 446 (Fla. 1st DCA 1978); see also § 6:1 Formation of a Contract, 8 FLA. PRAC., CONSTR. LAW MANUAL § 6.1 (2019-2020 ed.).



though a formal contract has not been executed.²⁰ Thus, without the Form of Agreement, CCC has a valid contract with City but, because the Form of Agreement was not submitted as part of the CCC bid, the CCC bid accepted by the City as the contract does not contain any of the terms that were meant to protect the interests of the City. Three of those provisions are critical to the viability of the contract with potentially serious consequences for the City:

1. Potential loss of FEMA funding: Because five pages of required federal clauses were in the Form of Agreement that was not included in the CCC submittal accepted by the City, the accepted bid creating the contract between CCC and the City does not contain the notice that required flow down clauses have been provided and any noncompliance could result in the loss of FEMA grant funds being used to fund a substantial portion of this project or, worse, the requirement to pay FEMA back if a subsequent FEMA audit showed noncompliance due to the failure to include the mandated federal contract clauses in the contract. Awarding a contract that could place City in the position of having to fully fund this project itself rather than through grant funds is not in the best interests of City.
2. Loss of Performance Bond Guarantees: Because the performance bond was omitted from CCC's bid package, the bond protecting the City against defective, incomplete, delayed or substandard work or materials is also not part of the CCC contract with the City.

²⁰ *Dedmond v. Escambia County*, 244 So.2d 758 (Fla. 1st DCA 1971).



3. Loss of Completion Time Conditions: The Form of Agreement sets forth specific completion dates that are not included in the CCC bid accepted by the City Council.

The significance of the three consequences pointed out above is amplified by the bid bond which only requires the winning bidder to enter into a written contract with the City in accordance with the Bid as accepted.

Additionally, the Form of Agreement omitted from the CCC bid sets forth the specific documents that are to be included in the contract between the City and CCC, including the Agreement and Performance/Payment Bond, as well as other documents listed in section 16.5 of the Project Manual provisions for the Project:

“The Notice to Contractors, Instructions to Bidders, General Conditions, Special Conditions, Specifications, Proposal, Agreement, Performance/Payment Bond, and Drawings form the contract and they are as fully as part of this contract as if the same were hereto attached or herein repeated.”²¹

Because CCC’s Form of Agreement and Performance Bond was not submitted with their proposal, any contract resulting from CCC’s bid will not include the scope of work, liability insurance, the City’s sovereign immunity protections, public records agreement, completion date conditions, guarantees of workmanship and materials and a multitude of other contract terms specified in the documents included in the Project contract under section 16.5 of the Form of Agreement omitted in CCC bid, all of which the City required to be included in the Project contract.

Moreover, Section 16.5 in the Form of Agreement omitted from the CCC bid, set priorities for resolving inconsistencies in the documents comprising the contract. The

²¹ Section 16.5, “Contract Documents.” Cocoa Riverfront Promenade Improvements. (Project Manual)



Agreement, exhibits and addenda have the first priority in resolving inconsistencies and the Contractor's Bid Proposal has the lowest consistency resolution priority of the documents listed in that section. Yet the City-accepted CCC bid proposal, as matters stand, is legally the entire contract. Therefore, any claim that the omission of the Form of Agreement is not material, is incredulous.

In contrast to CCC's bid, RUSH's bid contained the Form of Agreement executed by Anthony Landry on behalf of RUSH and made reference in a note that the "Performance and Payment Bond will be provided upon award" on the executed Performance and Payment Bond form, which is standard in the construction industry since surety companies will not issue a construction performance bond until the contract amount has been established in a written contract with a local government, which becomes part of the performance bond.

The City's acceptance of a CCC bid that failed to include the Form of Agreement; that failed to include at least a written agreement to provide the required performance bond as part of its bid; and the failure to include the Instructions to Bidders in the bid, all of which were required by the mandatory "shall" verbiage in the Project Manual, were material and unresponsive omissions that should have resulted in the award of the Project to lowest responsive bidder, which was RUSH because the acceptance of CCC's bid was a violation of state law.

Remedy Being Sought

As a remedy, RUSH asks the City to declare CCC's bid ineligible, null and void and granting the award to the lowest, responsive and responsible bidder, which is RUSH.



RUSH believes that, should the contract be awarded to them, they will be able to complete the job by the completion date specified in the Contract documents. Additionally, RUSH waives attorney's fees and costs pursuant to § 255.20 (4).

Submitted by

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Submitted via E-Mail, Fax, and Hand Delivery



Project Manual
Purchasing Division



**COCOA RIVERFRONT PARK PROMENADE
IMPROVEMENTS**

BID NO. B-20-08-COC

November 1st, 2019

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1. Invitation to Bid

SUBMIT BID TO: CITY OF COCOA FINANCE DEPARTMENT PURCHASING DIVISION 65 Stone St. COCOA, FLORIDA 32922 Third Floor PH: 321-433-8833		 INVITATION TO BID Bidder Acknowledgement FORM NO. 00019	
BUYER: Heath Hancher		TELEPHONE #: 321-433-8833	FAX #: 321-433-8860
MAILING DATE: November 1, 2019	BID TITLE: Cocoa Riverfront Park Promenade Improvements		BID NUMBER: B-20-08-COC
BID SUBMITTAL DATE AND TIME: December 2, 2019 at 3:00 p.m.	BID OPENING TIME AND LOCATION: 3:30 p.m. Purchasing Division Office, Cocoa City Hall, 65 Stone St. Cocoa, FL 32922, Third Floor, Room 311		Bids Received After Submittal Date and Time Will Not Be Accepted.
PRE BID LOCATION: Purchasing 3rd Floor Conference Room at City Hall, 65 Stone Street, Cocoa, FL 32922		TIME: 10 am	DATE: November 15, 2019
BIDDER NAME:			
MAILING ADDRESS:			
CITY-STATE-ZIP:			
EMAIL ADDRESS:		TELEPHONE NO:	
		FAX NO:	
AUTHORIZED SIGNATURE (MANUAL):			TITLE:
TYPED/PRINTED NAME:			DATE:
BIDDER'S CERTIFICATION I certify that I have carefully examined the instructions to Bidder/general Conditions, Invitation to Bid, Specification, and any other documents accompanying or made a part of this Invitation. I Further certify that all information contained in this bid is truthful to the best of my knowledge and belief and that I am duly authorized to submit this bid on behalf of the vendor/contractor and that the vendor/contractor is ready, willing, and able to perform if awarded the bid. In compliance with this Invitation to Bid, and subject to all conditions herein, I hereby offer and agree to furnish the goods and /or services specified in the Invitation at the prices or rates quoted in my bid, including the following: Bid prices will remain firm for a period of ninety (90) days in order to allow the City adequate time to evaluate the bids.			

REASON FOR NO BID (Check all boxes that apply):

- Not enough bid response time
- Specification unclear
- Our company does not handle this item/service
- Our company does not submit bids to Municipalities
- Other: (please explain)

Method bidder was informed of bid (check appropriate box):

- Received invitation by direct mail
- Viewed bid posting on Internet home page
- Read legal ad in newspaper
- Viewed through bid reporting service
- Other: (please explain)

THE CITY OF COCOA RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS/PROPOSALS OR ANY PORTION THEREOF, WITH OR WITHOUT CAUSE, TO WAIVE TECHNICAL ERRORS AND INFORMALITIES AND TO ACCEPT THE BIDS/PROPOSALS WHICH, IN ITS JUDGEMENT, BEST SERVES THE CITY.

Return This Form with Required Bid Submittal Documents

1.1. Bid Terms & Explanation

- a. **SUBMISSION OF BIDS:** All bids/proposals shall be submitted in a sealed envelope. The bid/proposal number, title and opening date shall be clearly displayed on the outside in the left-hand corner of the sealed envelope. The delivery of the said bid/proposal to the City of Cocoa Purchasing Department prior to the specified submittal date and time is solely and strictly the responsibility of the bidder. Any bid/proposal received in the Purchasing Department after the specified date and time will not be accepted.
- b. **EXECUTION OF BID/PROPOSAL:** Bid/proposal must contain a manual signature of authorized representative in the spaces(s) provided. Bids/proposal must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by bidder to any bid must be initialed. The company name and F.E.I.D. Number shall appear in space(s) provided.
- c. **BID OPENING:** Bid/proposal opening shall be public on the date and time specified. Bids/proposals must be submitted on forms or exact copy thereof, provided by the City of Cocoa. No other forms will be accepted. No bid/proposal may be withdrawn after opening for a period of ninety (90) days unless otherwise specified.
- d. **BID TABULATION:** Any bidder wishing to receive a copy of the bid/proposal tabulation is required to enclose a self-addressed envelope identified in the left-hand corner bid/proposal tabulation response.
- e. **CLARIFICATION/CORRECTION OF BID ENTRY:** The City of Cocoa reserves the right to allow for the clarification to questionable entries and for the correction of OBVIOUS MISTAKES.
- f. **INTERPRETATION:** Any questions concerning conditions and specifications shall be directed to the designated buyer. Those interpretations which may affect the eventual outcome of this bid/proposal will be furnished in writing to all prospective bidders. No interpretation shall be considered binding unless provided in writing by the designated buyer of the City of Cocoa. **Question cut-off date is November 22, 2019 at 5:00pm.**
- g. **PRICING:** Firm prices shall be bid and include FOB DESTINATION, all packing, handling, shipping charges and delivery to any point within the City of Cocoa to secure area or inside delivery.
- h. **ADDITIONAL TERMS & CONDITIONS:** The City of Cocoa reserves the right to reject bids containing any additional terms or conditions not specifically requested in the original specifications.
- i. **TAXES:** The City of Cocoa is exempt from Federal Excise Taxes and all sales taxes. The City of Cocoa tax number is 15-04-048758-54C.
- j. **DISCOUNTS:** All discounts EXCEPT THOSE FOR PROMPT PAYMENT shall be considered in determining the lowest new cost for the bid evaluation purposes.
- k. **MEETS SPECIFICATIONS:** All equipment and accessories furnished under these specifications shall be new, the latest model in current productions, and shall be of good quality, workmanship and material. The bidder represents that all equipment offered under this specification shall meet or exceed the minimum requirements specified. Delivery specifications shall be strictly adhered to.
- l. **BRAND NAMES:** If items called by this initiation have been identified in the specifications by a “Brand Name OR EQUAL” description, such identification intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be acceptable. Bids/proposals offering “equal” products will be considered for award if such products are clearly identified in the bid/proposal and are determined by the City of Cocoa to meet fully the salient characteristic requirements listed in the specifications.
- m. Unless the bidder clearly indicates in his bid that he is offering an “equal” product, the bid/proposal shall be considered as offering the same brand product referenced in the specification.
- n. If the bidder proposes to furnish an “equal” product, the brand name, if any of the product shall be otherwise clearly identified. The evaluation of bids/proposals and the determination as to equality of the product offered shall be the sole responsibility of the City of Cocoa and will be based on information furnished by the bidder. The Purchasing Department is not responsible for locating or securing any information which is not identified in the bid/proposal and reasonably available to the Purchasing Department. To ensure that sufficient information is available the bidder shall furnish as a part of the bid/proposal any descriptive material necessary for the buyer to determine whether the product offered meets the specification, establish exactly what the bidder proposes to furnish and what the City of Cocoa would be bidding itself to purchase by making an award.
- o. **SILENCE OF SPECIFICATIONS:** The apparent silence of this specification and any supplemental specifications as to any details or the omission from same of

any detailed descriptions concerning any point shall be regarded as meaning that only the best commercial practices as to correct type, size and design are to be used. All workmanship is to be first quality. All interpretation of this specification shall be made upon the basis of this statement.

p. ASSIGNMENT: Any purchase order issued pursuant to this bid/proposal and the monies which may become due hereunder are not assignable except with prior written approval of the City Manager.

q. LIABILITY: The supplier shall hold and save the City of Cocoa, its officers, agents and employees harmless against claims by third parties resulting from the supplier's breach of contract or the supplier's negligence.

r. PATENTS AND ROYALTIES: The bidder, without exception, shall indemnify and save the City of Cocoa and its employees from liability of any nature or kind, including cost and expense for or on account of any copyright, patent, or unpatented invention, process or article manufactured or used in the performance of the contract, including its use by the City of Cocoa. If the bidder uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device or materials in any way involved in the work.

s. TRAINING: Unless otherwise specified supplier(s) may be required at the convenience of and at no expense to the City of Cocoa to provide training to the City employees in the operation and maintenance of any item(s) purchased from this bid/proposal.

t. ACCEPTANCE: Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at vendor's expense. Those items and items not delivered as per delivery date in bid/proposal and /or purchase order may be purchased on the open market. Any increase in cost may be charged against the vendor. Any violation of the stipulations may also result in the vendor's name being removed from the bidders list.

u. SAFETY WARRANTY: The selling dealer, distributor, supplier and manufacturer shall be responsible for having complied with all Federal, State and local standards, regulations and law concerning the equipment specified and the use thereof, applicable and effective on the date of manufacture including safety and environmental standards as apply to both private industry and governmental agencies.

v. WARRANTY: The bidder agrees that, unless otherwise specified, the supplies and/or services furnished under this bid/proposal shall be covered by the most favorable commercial warranty the bidder gives to any customer for

comparable quantities of such supplies and/or services and that the rights and remedies provided herein addition to and do not limit any rights afforded to the City of Cocoa by any other provision of this bid/proposal.

w. AWARDS: As the best interest of the City of Cocoa may require, the right is reserved to make award(s) by individual item, group of items, all or none, on a city wide bases with one or more suppliers; to reject any and all bids or waive any minor irregularity or technicality in bids received. Bidders are cautioned to make no assumptions unless their bid has been evaluated as being responsive. All awards made as a result of this bid shall conform to applicable ordinances of the City of Cocoa.

x. All City of Cocoa permit fees are waived; vendor will be responsible for all State and County permit and impact fees.

y. DEFINITIONS:

I. BIDDER: The term BIDDER, used herein, refers to the dealer/manufacturer/business organization submitting a bid/proposal to the City of Cocoa in response to this invitation.

II. VENDOR: The term VENDOR, used herein, refers to the dealer/manufacturer/business organization that will be awarded a contract pursuant to the terms, conditions and quotations of the bid/proposal.

2. (Public Ad) City of Cocoa Invitation to Bid

Sealed bids will be accepted at the office of the Purchasing Manager of the City of Cocoa, located at 65 Stone St., Cocoa, Florida 32922, until **3:00pm, December 2, 2019** and will be publicly opened and read aloud at 3:30pm that same day, at Cocoa City Hall, in the 3rd floor conference room, for the following:

Cocoa Riverfront Park Promenade Improvements

BID # B-20-08-COC

Documents available on DemandStar

1 November 2019

The work to be bid consists of furnishing all labor, transportation, services, and incidentals; and performing all work specified in the bid documents. All work performed shall be in accordance with the specifications and contract documents pertaining thereto, which may be examined at the office of the Purchasing Manager, located at 65 Stone St., Cocoa, Florida. Copies of all documents, including blank bid forms, may be obtained from DemandStar by visiting their web site at <http://www.DemandStar.com>, or by phone at 1 (800) 711-1712. You may contact the City of Cocoa Purchasing Division in person, by phone: (321) 433-8833, fax: (321) 433-8860, or by email: purchasing@cocoafl.org.

Small Business Set Asides (i.e. Woman Owned, Minority, Veteran, Disadvantaged etc.) are encouraged to submit bids concerning this solicitation.

A mandatory Pre-Bid Conference will be held on November 15, 2019 at 10:00am on the 3rd Floor Conference Room at Cocoa City Hall, 65 Stone St., Cocoa, Florida 32922, Brevard County, Florida. A site visit will immediately follow the Pre-Bid Conference.

A Bid Bond or a certified or cashier's check from a National or State Bank in a sum of not less than five percent (5%) of the amount of the bid, made payable to the City of Cocoa, shall accompany each bid as a guarantee that the bidder will not withdraw from the competition for a period of ninety (90) days after opening of bids.

The City reserves the right to reject any or all bids, with or without a cause; to waive technical errors and informalities; and to accept the bid, which in its judgment, best serves the City. One or more of the City Council members may be present at the bid opening.

Publish in The Florida Today Public Newspaper on:

October 31st, 2019

2.1. Instructions to Bidders

2.1.1. Submission of Proposals

Sealed bids shall be received at the time and place designated herein and then publicly opened and read aloud, for furnishing all materials, transportation, labor, equipment and performing all operations required for the completion of the work herein specified and instructed within the contract documents.

2.1.1. Delivery of Proposals

The clock located in the Cocoa City Hall lobby, at the reception desk, shall be the official time for submitting any bid documents. A Bid, whether mailed or delivered in person, shall be submitted in a sealed envelope, bearing on the outside the name of the Bidder and his/her address, and clearly marked **BID # B-20-08-COC, Cocoa Riverfront Park Promenade Improvements** will be received until 3:00pm, **December 2, 2019** and addressed to **“Purchasing Manager, Cocoa City Hall, 65 Stone St., Cocoa, Florida 32922”**. Bids will be opened at 3:30 p.m. on the same day in the Purchasing Division Office, Cocoa City Hall, 3rd floor conference room. Potential bidders may obtain one (1) set of Bidding Documents from DemandStar by Onvia at www.demandstar.com or by calling 1-800-711-1712.

A mandatory pre-bid conference is / is not required or scheduled on **November 15, 2019** in the 3rd Floor conference room at Cocoa City Hall, 65 Stone St., Cocoa, Florida 32922, Brevard County, Florida.

A Bid Bond or a certified or cashier’s check from a National or State Bank in a sum of not less than five percent (5%) of the amount of the bid, made payable to the City of Cocoa, shall accompany each bid as a guarantee that the bidder will not withdraw from the competition for a period of ninety (90) days after opening of bids.

2.1.2. Submittal Requirements

Bidders shall submit their proposal in DUPLICATE one (1) original and one (1) copy of the forms, in addition to one electronic copy of the submittal on a USB drive or CD furnished herewith. The blank spaces shall be filled in correctly for each item for which a Bid is tendered. The Bidder shall state the price, typewritten or written in ink. **Each bid submitted shall include all Sections listed in section 00299-Check list for sealed bids (in order).**

Pursuant to the requirements of Section 287.133, Florida Statutes, pertaining to the sworn statement on Public Entity Crimes and the Convicted Vendor List, a statement is no longer required as part of the bid submittal; however, bidders are subject to the provisions of Section 287.133, Florida Statutes, whereby the State maintains a convicted vendor listing which excludes those suppliers from bid submittal for a period of thirty-six (36) months.

Potential vendors will be required to complete and submit a form, provided herein, acknowledging compliance with Section 287.087, Florida Statutes, and Drug-Free Workplace.

2.1.3. Questions, Discrepancies or Omissions

In case a Bidder finds a document discrepancy or omission, or is in doubt as to the meaning of any document, he/she should immediately notify the Office of the Purchasing Manager, 65 Stone St., Cocoa, Florida 32922 (Phone: (321) 433-8833). Written instructions, in the form of an addendum, will then be issued to all Bidders that have received a Bid Package. Should you have any technical or questions or questions about how to submit your bid, please contact Heath Hancher at (321) 433-8833 or email at hhancher@cocoafl.org.

2.1.4. Right to Reject

The City reserves the right to accept or reject any or all bids and may waive any informality in any proposal. Award of bid shall be made to the bidder that best serves the interest of the City of Cocoa, Florida.

2.1.5. Correction or Withdrawal of Bids

Correction or withdrawal of inadvertently erroneous bids shall be permitted up to the time of bid opening. After bid opening, no changes in bid prices or other provisions shall be permitted; provided, however, the Purchasing Manager shall have the authority to waive minor irregularities.

2.1.6. Americans with Disabilities Act

Person(s) with disabilities needing a special accommodation to participate in this proceeding should contact the Office of the Purchasing Division at 65 Stone St., Cocoa, Florida 32922, office: (321) 433-8833, no later than seven (7) business days prior to the date on which the accommodation is required.

2.1.7. Florida Prompt Payment Act

As defined in 218.73, Florida Statutes, for purposes of billing submission and payment procedures, a "Proper Invoice" by contractor, vendor or other invoicing party shall consist of at least all of the following:

- a. A description (including quantity) of the goods and/or services provided to the City (or a party on behalf of the City) reasonably sufficient to identify it (or them).
- b. The amount due, applicable discount(s), and the terms thereof;
- c. The full name of the vendor, contractor or other party who is supplying the goods and/or services including a mailing address in case of a dispute and a mailing address for payment purposes (if they are different) and a telephone number;
- d. The Purchase Order or Contract number as supplied by the City; and
- e. An identification by Bureau, Office or Department of the party(ies) to whom the goods were delivered or services provided.

All invoices, in order to be classified as a proper invoice, shall be delivered to Accounts Payable, Finance Department, City of Cocoa, 65 Stone St., Cocoa, Florida 32922.

Finally, in addition to all of the above, in order to be considered a proper invoice, it must be based on a proper delivery, installation, or provision of the goods and/or services to and acceptance by the City (or

party on behalf of the City); the vendor, contractor or other party who is supplying the goods and /or services has otherwise complied with all of the contract’s terms and conditions and is not in default of any of them; and if the contract requires any subcontractors or other parties to be bound by similar other “flown-down” requirements that those requirements have been complied with.

2.1.8. Period of Offer Validity

Prices quoted in the bid must remain open for a period of ninety (90) days from the date of bid opening.

2.1.9. Alternatives / Substitutions or Clarification to Specifications

Any alternatives or substitutions are not permitted. Two (2) Bid Alternates are included on the Bid Form and the alternate work may be included in the awarded Contract at the sole discretion of the City. This section is also used to clarify anything that pertains to this Bid Package.

2.1.10. Bid Tabulation

Bidders can download copies of the Bid Tabulation Sheet from DemandStar by Onvia at www.DemandStar.com under the documents section of the detail’s menu for this bid.

2.1.11. Patents and Copyrights

The Contractor shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product or device in performance of the Work, which is the subject of patent rights or copyrights. Contractor shall, at its own expense, hold harmless and defend the City against any claim, suit or proceeding brought against the City which is based upon a claim, whether rightful or otherwise, that the Work, or any part thereof, furnished under this Agreement, constitutes and infringement of any patent or copyright of the United States. The Contractor shall pay all damages and costs awarded against the City.

2.1.12. Termination for Default

- a. The performance of work under this agreement may be terminated by the City, in whole or in part, in writing, whenever the City shall determine that the Contractor has failed to meet performance requirements of this Agreement by giving thirty (30) days written notice to the contractor.
- b. The City has a right to terminate for default if the Contractor fails to make delivery of the supplies or perform the Work, or if the Contractor fails to perform the work within the time specified in the Agreement, or if the Contractor fails to perform any other provisions of the Agreement.
- c. Failure of a Contractor to deliver or perform the required work within the time specified, or within a reasonable time as determined by the City or failure to make replacements of rejected articles or work when so requested, immediately or as directed by the City, shall constitute authority for the City to purchase in the open market articles or work of comparable grade to replace the articles or work rejected, not delivered, not completed. On all such purchases, the Contractor or his surety shall reimburse the City, within a reasonable time specified by the City, for any expense incurred in excess of the Agreement prices.

d. Such purchases shall be deducted from Agreement quantities. Should public necessity demand it, the City reserves the right to utilize services or use and/or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the City. The Contractor shall not be liable for any excess costs if acceptable evidence has been submitted to the Director of Purchasing that failure to perform the Work was due to causes beyond the control and without the fault or negligence of the Contractor.

2.1.13. Familiarity with the work

The Contractor by executing this Agreement acknowledges full understanding of the extent and character of the Work required and the conditions surrounding the performance thereof. The City will not be responsible for any alleged misunderstanding of work to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Agreement by the Contractor serves as his stated commitment to fulfill all the conditions referred to in this Agreement.

2.1.14. Cooperative Purchase

To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined in writing to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing an agency to make purchases under such contract in accordance with FS 287-042 (16) 2019.

Each Governmental agency desiring to accept this bid, and make an award thereof, shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for materials ordered and received by it and no agency assumes any liability by virtue of this bid.

2.1.15. Evaluation of Bid Award

The City reserves the right to award the Agreement to the lowest most responsive and responsible bidder who submits the bid meeting specifications most advantageous to the City. The City further reserves the right to consider matters such as, but not limited to, quality offered delivery terms, and service reputation of the bidder in determining the most advantageous bid.

2.1.16. Agreement Alternations

No alterations or variables in the terms of the Agreement shall be valid or binding unless made in writing and signed by an authorized City official.

2.1.17. Quantities

The City reserves the right to increase or diminish any or all of the mentioned quantities of work/service or to omit any of them, as it may deem necessary. The item quantities listed in the bidding documents are given only as a guideline for preparing your bid and should not be construed as representing actual quantities to be purchased.

2.1.18. Terms

- a. The unit prices/percentages specified herein will remain firm for the period of this Agreement. Consideration of price increases at each renewal period will be given, provided such escalations are reasonable and acceptable to the City.
- b. This Agreement may be cancelled by either party with thirty (30) days written notice to the other party.
- c. All Invoices for purchases/services by the City shall be forwarded to the Accounts Payable Division, City of Cocoa, 65 Stone St., Cocoa, Florida 32922.
- d. The Contractor is to procure all permits, licenses, insurance(s), and certificates, or any such approvals of plan or specifications as may be required by federal, state and local laws, ordinances, rules, regulations, and City Purchasing Policies for the proper execution and completion of the services under this Agreement. All City of Cocoa fees will be waived.
- e. No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the Purchasing Manager or his designee.
- f. All disputes between the parties shall be resolved in accordance with the City of Cocoa Purchasing Policies.

2.1.19. Local Vendor Preference

The City of Cocoa grants preference to those vendors, contractors or service providers whose physical business address is within the boundaries of Brevard County and such location is evidenced by a local business tax receipt that has been issued for at least six (6) months prior to the date that the bid was submitted to the City. A post office box shall not be considered a physical business address.

A five percent (5%) preference is given to Brevard County vendors/contractors on bids, which do not exceed \$1,000,000.00 and do not fall into one of the categories outline in Ordinance 11-2009, which is amended by Ordinance 14-2009, and is available for review at the Office of the City Clerk or the Office of the Purchasing Manager, 65 Stone St., Cocoa FL, 32922.

2.1.20. Amend Proposal Bid

A Bidder may submit an amended proposal/bid before the deadline for receipt of proposals/bids. Such amended proposal/bid must be a complete replacement for a previously submitted proposal/bid and must be clearly identified as such in the transmittal letter which must include an authorized signature and be attached to the outside of the sealed replacement proposal/bid package.

2.1.21. Public Records

If the contractor has questions regarding the application of Chapter 119, Florida Statutes, to the contractor's duty to provide public records relating to this contract, please contact the custodian of public records at main: (321) 433-8484; cshealy@cocoaf1.org; City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

2.1.22. Local Vendor Preference Affidavit

The City of Cocoa grants preference to those vendors, contractors or service providers whose physical business address is within the physical boundaries of Brevard County and such location is evidenced by a local business tax receipt that has been issued for at least six (6) months prior to the date that the bid was submitted to the City. A post office box shall not be considered a physical business address.

A three percent (3%) preference is given to Brevard County vendors/contractors on bids, which do not exceed \$1,000,000.00 and do not fall into one of the categories outline in Ordinance 11-2009 which is amended by Ordinance 14-2009 and is available for review at the Office of the City Clerk or the Office of the Purchasing Manager, 65 Stone St., Cocoa FL, 32922.

REQUESTS FOR LOCAL PREFERENCE MUST BE ACCOMPANIED BY A TAX RECEIPT, AS DESCRIBED ABOVE, TO BE CONSIDERED.

Please be advised that the local preference requirements of the City Code do not prohibit the City from comparing the quality of materials proposed for purchase or prohibit the City from comparing qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. The City reserves the right to award contracts to the lowest and best bidder regardless of the application of any local preference.

This program applies to Brevard County, Florida vendors / contractors only.

DO NOT COMPLETE THIS FORM IF YOU DO NOT QUALIFY FOR THIS PROGRAM

Copy of local business tax receipt submitted ___ Yes ___ No (must be attached to receive preference)

Name of Business _____

BY:

Signature

3. Scrutinized Company Certification

3.1. Florida Statutes, Sections 287.135 and 215.473

This certification is required pursuant to Florida Statutes, Sections 287.135 and 215.473 As of July 1, 2018, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of:

- a. Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- b. One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
 - I. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473; or
 - II. Is engaged in business operations in Cuba or Syria.

THIS CERTIFICATION FORM MUST BE COMPLETED AND INCLUDED IN YOUR BID RESPONSE. FAILURE TO SUBMIT THIS FORM AS INSTRUCTED SHALL RENDER YOUR BID SUBMITTAL NON-RESPONSIVE.

- a. The Vendor, owners, or principals are aware of the requirements of Section 287.135, Florida Statutes; and
- b. The Vendor, owners, or principals are eligible to participate in this solicitation and not listed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel; and
- c. For contracts of one million dollars are more, the Vendor, owners, or principals are eligible to participate in this solicitation and not listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and, further, are not engaged in business operations in Cuba or Syria; and
- d. If awarded the Contract, the Vendor, owners, or principals will immediately notify the City in writing if any of its company, owners, or principals: are placed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; engage in a boycott of Israel; or engage in business operations in Cuba or Syria.

(Authorized Signature)

(Printed Name and Title)

(Name of Vendor)

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Notary Public

Print Name: _____

My Commission expires:

This certification form must be completed and included within bid response. Failure to submit this form as instructed shall render bid submittal non-responsive.

4. Certification A: (Debarment, Suspension and other responsibility matters – Primary Covered Transactions)

The prospective primary participant certifies to the best of its knowledge and belief that its principals;

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;
- b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation of this proposal.

4.1. Instructions for Certification (A)

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below;

- a. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or any explanation shall disqualify such person from participation in this transaction.
- b. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
- c. The prospective primary participant shall provide immediate written notice to the department or agency to who this proposal is submitted if at any time the prospective primary participant learns that its

certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.
- e. The prospective primary participant
- f.
- g. agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- h. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- i. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
- j. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- k. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

5. Certification B: (Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions)

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

5.1. Instructions for Certification (B)

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

- a. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- b. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- c. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.
- d. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- e. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause title “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitation for lower tier covered transactions.
- f. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may but is not required to, check the Non-procurement List.
- g. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of

a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- h. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant:		Date:
Signature of Authorized Certifying Official:	Title:	

6. Bidders Certification

- a. I have carefully examined the Invitation to Bid, Instructions to Bidders, General and/or Special Conditions, Vendor'’ Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this Invitation;
- b. I hereby propose to furnish the goods or services specified in the Invitation at the prices or rates quote in my bid. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City adequate time to evaluate all bids;
- c. I agree to abide by all condition of this bid and understand that a background investigation may be conducted by the City of Cocoa;
- d. I certify that all information contained in this bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this bid on behalf of the vendor/contractor as its act and deed and that the vendor/contractor is ready, willing and able to perform if awarded the bid;
- e. I further certify, under oath, that this bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a bid for the same product or service; no officer, employee or agent of the City of Cocoa or of any other bidder interested in said bid; and that the undersigned executed this Bidder’s Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

(Authorized Signature)

Name of Business

Phone & Fax Number

(Printed Name and Title)

Business Mailing Address

City, State, Zip

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known Or Produced Identification

Notary Public
Print Name: _____
My Commission expires:

7. Checklist for Sealed Bid

7.1. Preparation of Bids

- a. Bidders are expected to examine this bid form, attached drawings, specifications, if any and all instructions. Failure to do so will be at the Bidder's risk.
- b. All prices and notations must be in ink or typewritten. No erasure marks permitted. Mistakes may be crossed out and corrections inserted adjacent and must be initialed and dated in ink by person signing bid. All bids must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. Each bidder shall furnish the information required on the Original City of Cocoa's bid forms and each accompanying sheet thereof, on which he/she makes an entry.
- d. Unit price for each unit bid shall be shown. A total shall be entered in the amount column for each item bid. In case of discrepancy between a unit price and extended price, the unit prices will be presumed to be correct.
- e. Although the City generally awards bid based on a "lump sum" basis to the bidder submitting the lowest responsive and responsible total bid as shown on the Invitation to Bid cover page, the City may choose to award on a "per group" or "per item" basis. Therefore, bidders must submit with their bids, all pricing pages on the forms provided clearly indicating which items are bid and which are not. Failure to submit these pages will render such bid non-responsive.
- f. The official clock to be used for submitting any bid documents is located at the City Hall's lobby. Submittal time for this bid expires at **3:00 p.m.** on the date stated in these documents.

7.2. Bid Check List

Bidders are cautioned to please check their bid very carefully, using the following Checklist:

Insert	Description
Yes <input type="checkbox"/>	Bid envelope prepared as specified
Yes <input type="checkbox"/>	It is the bidder's responsibility to contact Onvia DemandStar (www.DemandStar.com or 1-800-711-1712) prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and incorporate that information into the bid response.
Yes <input type="checkbox"/>	Submitted in Duplicate as requested one (1) Original and (1) Copy
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 1.0 Invitation to Bidders (Form 0019)
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 2.1 Instructions to Bidders
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 3.0 Scrutinized Company Certification
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 4.0 Certification A (Debarment, suspension and other responsibility matters – Primary Covered Transactions)
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 5.0 Certification B (Debarment, suspension, ineligibility and voluntary exclusions – Lower Tier Covered Transactions)
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 6.0 Bidder's Certification
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 7.0 Bid Form/Schedule of Unit Pricing
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 8.0 Exceptions to Specifications
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 9.0 Business References
<input type="checkbox"/>	Yes <input type="checkbox"/> Section 10.0 Statement of Bidders Qualifications

	Yes <input type="checkbox"/>	Section 11.0 Listing of Subcontractors
	Yes <input type="checkbox"/>	Section 12.0 Bid Bond
	Yes <input type="checkbox"/>	Section 13.0 Non-Collusion Affidavit
	Yes <input type="checkbox"/>	Section 14.0 Drug free workplace certification signed
	Yes <input type="checkbox"/>	Section 15.0 Conflict of Interest Statement
	Yes <input type="checkbox"/>	Section 16.0 Form of Agreement
	Yes <input type="checkbox"/>	Section 17.0 Corporate Principal Certificate
	Yes <input type="checkbox"/>	Section 18.0 Performance and Payment Bond
	Yes <input type="checkbox"/>	Section 19.0 Certificate of Liability
	Yes <input type="checkbox"/>	Section 27.0 No Bid Response to Invitation to Bid

8. Bid Acknowledgement Form

Proposal of _____
(Name)

(Address)

To furnish all materials, service, equipment, and labor required, for **Cocoa Riverfront Park Promenade Improvements** as specified in the bid documents.

TO: Purchasing Manager
City of Cocoa
65 Stone St.
Cocoa, Florida 32922

Bidders:

The undersigned Bidder has carefully examined the Contract Documents and is familiar with the nature and extent of the work and materials and labor required. The undersigned agrees to do all of the work called for by said specifications, in the manner prescribed therein, in accordance with the Contract Documents, for the prices stated in the spaces herein provided.

= TOTAL BASE BID	\$
------------------	----

_____ Dollars
(Grand Total Written in words)

Bidder Agreement & Public Notary

The undersigned also agrees as follows:

The undersigned Bidder also agrees to commence the work with an adequate force and equipment within ten (10) consecutive calendar days following receipt of Notice to Proceed/Original Purchase Order. Work should be substantially complete in thirty (30) days with completion in thirty-five (35) days from notice to proceed.

Any deviation(s) in the specifications must be so indicated on form number 00311 (EXCEPTIONS TO SPECIFICATIONS/CLARIFICATIONS).

The Contractor shall procure and shall maintain the City's insurance requirement during the life of this Contract. (See Section 027 General Conditions)

The Contractor agrees to reimburse the City of Cocoa, Florida, as liquidated damages for each calendar day elapsing between the date herein specified as the day of substantial or full completion and the actual day of such completion of the contract work, the amount of nine hundred and sixty-four dollars (\$964.00) per calendar day.

_____	_____	_____
(Authorized Signature)	Name of Business	Phone & Fax Number
_____	_____	_____
(Printed Name and Title)	Business Mailing Address	City, State, Zip

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20__, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known Or Produced Identification

 Notary Public
 Print Name: _____
 My Commission expires _____

BID FORM

Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of bids. Final payment for all Unit Price Bid items will be based on actual quantities, determined as provided to complete the project as indicated in the contract documents.

See Specification Section 01200 for additional information on each bid item.

Item Number	Item Description	Unit	Quantity	Unit Price	Total Price
1*	Mobilization/Demobilization, Insurance, Bonds*	LS	1	\$	\$
2	Level "A" Subsurface Utility Investigations	LS	1	\$	\$
3	Erosion and Sediment Control	LS	1	\$	\$
4	Demolition	LS	1	\$	\$
5	Electrical and Lighting	LS	1	\$	\$
6	Reinforced Concrete Wall and Piers	LS	1	\$	\$
7	Reinforced Concrete Overlooks	LS	1	\$	\$
8	Construct Utilities	LS	1	\$	\$
9	Landscape curb	LS	1	\$	\$
10	Landscaping & Irrigation	LS	1	\$	\$
11	Lighted Sign	LS	1	\$	\$
12	Survey and AutoCAD Format Record Drawings Provided by the Contractor	LS	1	\$	\$
13	Allowance	LS	1	\$	\$
Total Base Bid Amount					
14	Additive Bid Alternate 1 – Alternate Landscaping	LS	1	\$	\$
15	Deductive Bid Alternate 2 – Use of Precast Overlook Elements	LS	1	\$	\$

*NOTE: Bid Item Number 1 cannot be more than 7% of the Total Base Bid Price.

Failure to complete the above will result in the bid being declared non-responsive.

9. Exceptions, Deviations or Clarifications to Specifications

Print or in legible hand writing detailed information below:

A large, empty rectangular box with a thin black border, intended for providing detailed information regarding exceptions, deviations, or clarifications to specifications. The box is currently blank.

10. Business References

Bidder shall submit as a part of the bid package, three (3) business references. The Bidder must include name of the business, address, contact person, and telephone number. This list of references must be of similar nature and size preferably governmental/Municipalities.

Reference 1

Business Name	
Address	
Telephone Number	
Contact Person	

Reference 2

Business Name	
Address	
Telephone Number	
Contact Person	

Reference 3

Business Name	
Address	
Telephone Number	
Contact Person	

Optional Reference

Business Name	
Address	
Telephone Number	
Contact Person	

11. Statement of Bidder's Qualifications

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The bidder may submit any additional information he desires.

- a. Name of Bidder: _____
- b. Permanent main office address: _____
- c. When organized (Month/Year): _____
- d. If a corporation, where incorporate (State): _____
- e. How many years has business been engaged in the contracting business under your present firm or doing business as (DBA): _____
- f. Past Performance (List past contracts of similar value and work previously awarded) :

Contract Name	Contract No.	Customer	Value	Pop (Period of Performance)	Completion Date or On-Going

- g. General scope of services company provides:

- h. Has business ever failed to complete any work awarded? Yes No
- If yes, please specify cause and resolution:

- i. Has business ever defaulted on a contract? Yes No
If yes, please specify cause:

- j. List major equipment as it pertains to performing on this contract:
(Specify if equipment is owned, leased, subleased or third-party provided.)

- k. Provide an example of construction work similar in type to this project.
(Briefly describe scope of work, time-line, milestones and challenges)

1. Background and experience of the principal stakeholders and project managers assigned to this project.

Name	Position	Role in Project	Background	Years' Experience

m. Credit available: \$ _____

n. Give bank reference: _____

o. Is business able to provide a detailed financial statement and furnish any other information that may be required by the City of Cocoa? Yes No

The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City of Cocoa in verification of the recitals comprising this Statement of Bidder's Qualifications.

(Authorized Signature)

Name of Business

Phone & Fax Number

(Printed Name and Title)

Business Mailing Address

City, State, Zip

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known Or Produced Identification

Notary Public
Print Name: _____
My Commission expires:

11.1. Listing of Subcontractors

The Bidder proposes that the following subcontractors are qualified to performed the referenced work and have successfully done so on recent projects similar in nature and size. Upon approval of subcontractors listed the successful bidder shall not substitute subcontractors without approval from the Engineer.

Business name, address, phone, primary and alternate point of contact, email	References
Name:	1.
Address:	2.
City:	
State: zip:	
Phone: Primary POC: Alternate POC: Email:	3.
Business name, address, phone, primary and alternate point of contact, email	References
Name:	1.
Address:	2.
City:	
State: zip:	
Phone: Primary POC: Alternate POC: Email:	3.
Business name, address, phone, primary and alternate point of contact, email	References
Name:	1.
Address:	2.
City:	
State: zip:	
Phone: Primary POC: Alternate POC: Email:	3.
Business name, address, phone, primary and alternate point of contact, email	References
Name:	1.
Address:	2.
City:	
State: zip:	
Phone: Primary POC: Alternate POC: Email:	3.

12. Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, _____
 Full name and address or legal title of contractor

_____ as Principal, and _____

Full name and address or legal title of Surety _____ of the
 City of COCOA

State of FLORIDA, a corporation existing under the laws of the State of Florida, as Surety, are held and firmly
 bound unto the CITY OF COCOA hereinafter called the Obligee, in the sum of

_____ Dollars (\$_____)

Lawful money of the United States of America, for the payment of which sum well and truly to be made, we
 bind ourselves our heirs, executors, administrators and successors, jointly and severally, firmly by these
 presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the
 accompanying Proposal or **Bid No. B-20-08-COC**, for the performance of:

The Riverfront Promenade Overlook

NOW, THEREFORE, if the Principal shall not withdraw said Bid within city ninety (90) days after the opening
 of the same and in the event of the acceptance of his proposal by the Owner, shall within the period specified
 therefore, enter into a written contract with the Owner in accordance with the Bid as accepted, and give bond
 with good and sufficient surety or sureties, as may be required, for the faithful performance and proper
 fulfillment of such contract, or in the event of the withdrawal of said Bid within the period specified, of the
 failure to enter into such contract and give bonds within the time specified, if the Principal shall pay the Owner
 the difference between the amount specified in said Bid and the amount for which the Owner may procure the
 required work, if the latter amount be in excess of the former, then the above obligation shall be void and of no
 effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals
 this _____ day of _____, 2_____, the name and corporate seal of each corporate body
 being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of
 its governing body.

(Principal) (Seal) _____

 (Witness) _____ (Title)

(Address) _____
 _____ (Surety) (Seal)
 _____ (Title)
 _____ (Address)

13. Non-Collusion Affidavit of Bidder

State of Florida

County of _____, being first duly sworn, deposes and says that:

He / She is _____ of _____, the Bidder that has submitted the attached Bid;

He / She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Such Bid is genuine and is not a collusive or sham Bid;

Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Cocoa or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owner’s employees, or parties in interest, including this affiant.

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Notary Public

Print Name: _____

My Commission expires:

14. Drug Free Workplace Certification

In accordance with Florida Statutes 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedure for processing the bids will be followed if none of the tied vendors have a drug-free work place program. In order to have a drug-free workplace program, a business shall:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, Dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- b. Inform employees about the danger of drug abuse in the workplace, the business's policy maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- c. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- d. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- e. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- f. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

(Company)

(Signature & Title)

15. Conflict of Interest Statement

Before me, the undersigned authority, personally appeared, who was duly sworn, deposes, and states:

I am the _____ of _____ with a local office in _____
_____ and principal office in _____.
City and State City and State

The above-named entity is submitting a Bid for the City of Cocoa described as:

City of Cocoa

Cocoa Riverfront Park Promenade Improvements

The Affiant has made diligent inquiry and provides the information contained in this Affidavit based upon his own knowledge and thereof the following;

- a. The Affiant states that only one submittal for the above bid is being submitted and that the above-named entity has no financial interest in other entities submitting bids for the same project.
- b. Neither the Affiant nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraints of free competitive pricing in connection with the entity's submittal for the above bid. This statement restricts the discussion of pricing data until the completion of negotiations if necessary and execution of the Contract for this project.
- c. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise ineligible from participation in contract letting by any local, State, or Federal Agency.
- d. Neither the entity, nor its affiliates, nor anyone associated with them have any potential conflict of interest due to any other clients, contracts, or property interests for this project.
- e. I certify that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the City of Cocoa.
- f. I certify that no member of the entity's ownership or management, or staff has a vested interest in any aspect of the City of Cocoa.
- g. In the event that a conflict of interest is identified in the provision of services, I, on behalf of the above-named entity, will immediately notify the City of Cocoa.

(Authorized Signature)

Name of Business

Phone & Fax Number

(Printed Name and Title)

Business Mailing Address

City, State, Zip

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Notary Public
Print Name: _____
My Commission expires:

16. Form of Agreement

This Agreement made and entered into on the _____ day of _____, 20____ by and between _____, authorized and duly licensed to do business in the State of Florida, hereinafter called the Contractor, with an address of _____, and the City of Cocoa, a municipal corporation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the City, with an address of 65 Stone Street, Cocoa, Florida 32922.

Witnessed that the Contractor and the City, for the Consideration herein-after named, agree as follows:

16.1. Scope of Work – Article I

The Contractor shall furnish all labor, supervision, equipment, materials and perform all work described in the Bidding/Contract Documents and Drawings, and shall do everything required by this agreement and the contract documents. A detailed Project Schedule is provided in Appendix A and Technical Specifications Package is provided in Appendix B as the base point of reference for this project requirement.

16.2. Commencement and Completion of Work - Article II

The Contractor will be required to commence work under this contract within 10 calendar days after the date of receipt by him of Notice to Proceed or Purchase Order, and substantially complete the work within 135 days and totally complete all work in its entirety within 155 days of Notice to Proceed or Purchase Order.

The City anticipates issuing the Notice to Proceed by January 6, 2020. The work must be substantially complete by June 1, 2020 and totally complete in its entirety by June 20, 2020. The City holds a major event in the park on July 4th weekend and all work shall be complete and the area cleaned to allow preparation for that event.

The Contractor agrees to reimburse the City of Cocoa, Florida, as liquidated damages for each calendar day elapsing between the date herein specified as the day of substantial or full completion and the actual day of such completion of the contract work, the amount of one thousand dollars (\$1,000.00) per calendar day. All provisions regarding Contract Time are essential to the performance of this Contract. The parties acknowledge that the Contract Time provided in this Section includes consideration of adverse weather conditions common to Central Florida including the possibility of hurricanes and tropical storms.

16.3. The Contract Sum - Article III

The City will pay the Contractor for performance of the contract, subject to additions and deductions provided therein, in current funds as follows:

_____ \$ _____
(Written in Words) (In Figures)

Contractor agrees to accept the Contract Price as full compensation for performing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents.

The Contractor acknowledges that Contractor studied, considered, and included in Contractor 's Total Bid all costs of any nature relating to: (1) performance of the Work under Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions; (4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

The Contractor acknowledges that performance of the Work will involve significant Work adjacent to, above, and in close proximity to Underground Facilities including utilities which will require the support of active utilities, as well as, the scheduling and sequencing of utility installations, and relocations (temporary and permanent) by Contractor.

(1) In addition to the acknowledgments previously made, the Contractor acknowledges that the Contractor 's Total Bid (original Contract Price) specifically considered and relied upon Contractor 's own study of Underground Facilities, utilities in their present, relocated (temporary and permanent) and proposed locations, and conflicts relating to utilities and Underground Facilities.

(2) The Contractor acknowledges that Contractor 's Total Bid (original Contract Price) considered and included all of Contractor 's costs relating to Contractor 's responsibilities to coordinate and sequence the Work of the Contractor with the work of the City, if any, with its own forces, the work of other contractors, if any, and the work of others at the Project site.

Payments will be made to the Contractor for actual quantities installed on the basis of the Schedule of Unit Prices included as a part of the Bid, which shall be as fully a part of the Contract as if attached or repeated herein. Where the Contract Documents provide for Unit Price Work, the Contract Price stated in the Agreement will include for all Unit Price Work an amount equal to the sum of the Unit Prices for each item of Unit Price Work times the estimated quantity of each item as indicated in the Contract Documents. Each Unit Price will be deemed to include an amount considered by Contractor to be adequate to cover all costs, including supplemental and administrative costs, and profit.

16.4. Progress Payments – Article VI

Partial payments calculated from materials stored on the job site and completed work in place and acceptable to the City at the unit bid prices will be made in accordance with the Florida Prompt Pay Act, Chapter 218, Part VII, Florida Statutes. The Contractor shall, after the first of each month, submit invoice for materials used and work performed for the previous month. The owner will certify all invoices before presenting them for payment. A form of pay estimate, stating that the bill is fair and equitable and in exact accord with contract prices will be utilized for pay purposes. Ten percent (10%) of the amount due and payable to the Contractor will be retained from each month's partial payment.

The remaining retainage amount withheld shall be released with the Final Payment after the issuance of the Final Completion Certificate. City shall make final payment to Contractor within thirty (30) days after the work is fully and properly completed, if the contract has been fully and timely performed, but subject to the condition that final payment shall not be due until Contractor has delivered to City a complete release of liens arising out the contract, or receipt releases of lien fully covering all labor, materials and equipment for which a lien could be filed as provided in Article VIII below.

Also, the contractor shall: (1) provide satisfactory evidence that it has acquired title to the materials that it has been paid for and that the material will be used to perform this contract, and (2) provide a Consent of Surety for the progress payments.

Progress payments may be withheld if:

- a. Work is found defective and not remedied;
- b. Contractor does not make prompt and proper payments to subcontractors;
- c. Contractor does not make prompts and proper payments for labor, materials, or equipment furnished him;
- d. Another contractor is damaged by an act for which Contractor is responsible;
- e. Claims or liens are filed on the job; or
- f. In the opinion of the City that Contractor's work is not progressing satisfactorily.

Further, City may withhold additional retainage in anticipation of liquidated damages equal to the product of the number of Days after the scheduled Contract Time (Substantial Completion or Final Completion) and the amount of liquidated damages set forth in this Contract if Contractor is behind schedule and it is anticipated by City that the Work will not be completed within the Contract Time. The additional retainage, under this subsection, may at the City's discretion be withheld from subsequent Progress Payments. Any additional retainage held under this subsection shall be released to Contractor in the next Progress Payment following the City's approval of a supplemental Progress Schedule demonstrating that the requisite progress will be regained and maintained as required by the General Conditions.

By making payments City does not waive claims including but not limited to those relating to:

- a. Faulty work appearing after substantial completion has been granted;
- b. Work that does not comply with the Contract Documents;
- c. Outstanding claims of liens; or
- d. Failure of Contractor to comply with any special guarantees required by the Contract Documents.

16.5. The Contract Documents – Article V

The Notice to Contractors, Instructions to Bidders, General Conditions, Special Conditions, Specifications, Proposal, Agreement, Performance/Payment Bond, and Drawings form the contract and they are as fully as part of this contract as if the same were hereto attached or herein repeated. In case of any inconsistency in

any of the documents bearing on the Agreement between the City and the Contractor, the inconsistency shall be resolved by giving precedence in the following order:

- a. Agreement Exhibits and Addenda
- b. Change Orders
- c. Supplemental Terms and Conditions
- d. General Terms and Conditions
- e. Engineering Plans and Drawings
- f. Contractor's Bid Submittal
- g. [OTHER]

At its discretion, during the course of the work, should any errors, ambiguities, or discrepancies be found in the Contract Documents, the City at its sole discretion will interpret the intent of the Contract Documents and the Contractor hereby agrees to abide by the City's interpretation and agrees to carry out the work in accordance with the decision of the City.

16.6. Liability Insurance – Article VI

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT LESS THAN \$15,000:

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is LESS than \$15,000, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence and with a deductible amount not greater than \$1,000. It is further required that the City of Cocoa, be named as an additional insured to the contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT \$15,000 OR MORE:

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is \$15,000 or MORE, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$2,000,000 as the combined single limit for each occurrence and with a deductible not greater than \$5,000 or as otherwise approved in writing by the City Manager. It is further required that the City of Cocoa and FDOT, be named as an additional insured to the Contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

AUTOMOBILE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL CONTRACTS:

The Contractor shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$1,000,000 property damage as the combined single limit for each occurrence to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by the Contractor.

PROFESSIONAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL PROFESSIONALS AS DEFINED BY FLORIDA STATUTE:

Professionals and professional corporations, associations, and firms who contract with the City of Cocoa to provide professional services are required to maintain Professional Liability Insurance and submit proof of same in the form of a certificate of insurance before work is begun.

ENVIRONMENTAL IMPAIRMENT INSURANCE MINIMUM REQUIREMENTS:

Individuals or firms who contract with the City of Cocoa to provide excavation or construction type services and who will be locating portable fuel or lubricant storage tanks at the job site or who will be storing or using hazardous chemicals on the job site are required to maintain Environmental Impairment Insurance of "Pollution Insurance" with a limit of not less than \$1,000,000 per occurrence and submit proof of same in the form of a certificate of insurance or an endorsement to their General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun. Contracts with such firms shall include a provision that they work in compliance with the OSHA Hazardous Communication Standard and Florida Department of Environmental Protection guidelines and supply all information about hazardous chemical being brought onto City property as required by the City's Safety and Loss Control Program.

WORKERS' COMPENSATION INSURANCE MINIMUM REQUIREMENTS:

It is required that firms employing four or more people who contract with the City of Cocoa maintain Workers' Compensation Insurance at the statutory limits and employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

It is required that firms employing less than four people who contract with the City of Cocoa comply with the exemption and notice provisions of F.S. 440 and maintain employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

However, if you are a corporate officer of a corporation that is actively engaged in the construction industry, or a sole proprietor or partner who is actively engaged in the construction industry, then your exemption will not apply to any work performed at a commercial building project valued at \$250,000 or greater and you must secure workers' compensation coverage in accordance with F.S. 440.38 and these general conditions and submit proof of same in the form of a certificate of insurance before work is begun.

COMPREHENSIVE BUILDER RISK INSURANCE

The Contractor shall maintain comprehensive builder risk insurance, which shall cover Contractor's labor, and any materials and equipment to be used for completion of the Work performed under this Agreement, against all risks of direct physical loss, excluding earthquake and flood, for a minimum amount of \$2,000,000. Contractor shall maintain the builder risk insurance required by this subsection until the date a certificate of occupancy is issued issuance of a certificate of occupancy for the Work.

DURATION OF CONTRACTS-NAMED INSUREDS-LIABILITY INSURANCE:

For contracts exceeding time periods of 30 days, it is required that the vendor name the City of Cocoa as an additional insured on their Liability Insurance policies and submit proof of same in the form of a certificate of insurance before work is begun. A copy of a current Certificate of Insurance shall be provided to the City by Contractor upon the Effective Date of this Agreement which satisfied the insurance requirements of this Article. Renewal certificates shall be sent to the City 30 days prior to any expiration date. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the City and the State of Florida, Department of Transportation, or as provided in accordance with Florida law.

16.7. Performance / Payment Bond – Article VII

The contractor shall furnish to the City concurrently with the execution of this contract a Performance/Payment Bond equal to 100% of the bid in the penal sum of \$ [REDACTED] with good and sufficient sureties, conditioned upon the performance of this contract by the Contractor in accordance with the terms and conditions hereof, within the time herein provided and with the additional obligation that such Contractor shall promptly make payment to all persons supplying him, labor, materials, and supplies, used directly by said Contractor in the prosecution of the work provided for in this contract.

16.8. Acceptance and Final Payment – Article VIII

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Owner will promptly make such inspection and when he finds the work acceptable under the contract and the contract fully performed, he will promptly issue a final certificate, over his own signature, stating the work provided for in this contract has been completed and acceptance by him under the terms and conditions thereof is recommended and the entire balance found to be due the Contractor will be paid to the Contractor at the office of the City within thirty (30) days after the date of said final certificate. Before issuance of final certificate, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills and other indebtedness connected with the work have been paid. The making and acceptance of the final payment shall not constitute a waiver of any claims of the city against the Contractor, including, but not limited to, claims arising for defective or faulty work, warranty work, unsettled liens, or the failure of the Contractor to correctly comply with the job specification. A Consent of Surety for the release of the final payment will be required.

16.9. Attorney Fees and Costs – Article IX

Should any dispute or legal action arise out of this agreement or the obligations stated herein, or any dispute or action is based upon this Agreement or any of its provisions, the prevailing party shall be entitled to

recover its reasonable attorney fees, expenses and costs incurred in connection with such a dispute or action, including, without limitation, its attorney fees and costs through appeals.

16.10. Fully Negotiated Agreement – Article X

This agreement has been fully negotiated in an arm's length transactions and neither party has been coerced in any manner to execute this agreement. Each party has opportunity to employ legal counsel and seek legal advice from such counsel with respect to this agreement, its obligations, terms and limitations.

16.11. Severability – Article XI

If any provisions of this agreement is declared or deemed invalid, unenforceable or unlawful by any tribunal or court of competent jurisdiction, such provision shall be deemed automatically modified to conform to the requirements for validity as declared at the time, and as so modified, shall be deemed a provision of this agreement as though originally included herein. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted and withdrawn from this agreement as though the provision had never been included herein. In either event, the remaining provisions of this agreement shall remain in full force and effect.

16.12. Venue and Governing Law – Article XII

The parties agree that the venue shall be exclusively in Brevard County, State of Florida, for disputes or actions which may arise out of or are based upon this agreement. Venue for any federal action or litigation shall be Orlando, Florida. This agreement shall be governed by the laws of the State of Florida where it is deemed, made and executed.

16.13. Modification and Entire Agreement – Article XIII

This agreement may only be modified, altered or amended in whole or in part, by written instrument setting forth such changes and signed by all parties hereto. This agreement constitutes the entire agreement and understanding between the parties, and oral communications and understandings are hereby deemed void and merged into this agreement.

16.14. Notices – Article XIV

Unless otherwise stated herein, all notices to the parties to this agreement shall be in writing, certified mail, return receipt request, at the address listed above.

16.15. Binding Effect – Article XV

This agreement shall be binding upon the parties, heirs, assigns, personal representatives, executors and successors.

16.16. Waiver – Article XVI

Any waiver of any breach or violation of either party's obligations under this agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violations.

16.17. Independent Contractor – Article XVII

At all times during the term of this Agreement, Contractor shall be considered an independent contractor and not an employee of the City.

16.18. Change Orders – Article XVIII

Any and all change orders required under this Agreement shall be approved, in writing, by the City prior to the Contractor performing, or not performing, the work specified in the change order.

16.19. Sovereign Immunity – Article XXIX

The City intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. Contractor agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

16.20. Default by Contractor – Article XX

16.20.1. Right to Revoke / Terminate

The City reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, in the following circumstances, each of which shall represent a default and breach of this Agreement:

- a. Contractor defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within seven (7) calendar days after written notice from the City specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within seven (7) calendar days, in which case the Contractor promptly takes and diligently pursues such action as are necessary therefore; or
- b. Contractor is adjudicated bankrupt or makes any assignment for the benefit of creditors; or Contractor becomes insolvent, or is unable or unwilling to pay its debts; or

- c. Contractor has acted negligently, as defined by general and applicable law, in performing the services hereunder; or
- d. Contractor has committed any act of fraud upon the City; or
- e. Contractor has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.

Notwithstanding the aforementioned, in the event of a default by Contractor, the City shall have the right to exercise any other remedy the City may have by operation law, without limitation, and without any further demand or notice.

16.21. Termination – Article XXI

Notwithstanding any other provision of this Agreement, City may, upon written notice to Contractor, terminate this Agreement, without penalty, if:

- a. Contractor is in default pursuant to Article 20, Default by Contractor;
- b. Contractor makes a general assignment for the benefit of its creditors;
- c. Contractor fails to comply with any condition or provision of this Agreement; or
- d. Contractor is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right or remedy City may have under this Agreement.

In the event of such termination, City shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work properly performed prior to the effective date of termination. This Agreement may be cancelled by either party with thirty (30) days written notice to the other party.

16.22. Indemnification – Article XXII

To the extent provided by law, Contractor shall indemnify, defend, and hold harmless the City and the State of Florida, Department of Transportation, including the City and Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Contractor, or any of its officers, agents, or employees, subcontractors, or independent contractors, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Contractor hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by Contractor to indemnify City for the negligent acts or omissions of City, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by Contractor to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties.

The indemnification provided above shall obligate the Contractor to defend as its own expense or to provide for such defense, at the option of the City, as the case may be, of any and all claims of liability and all suits

and actions of every name and description that may be brought against the City or its employees and officers to the services under this Agreement whether the services be performed by the Contractor or anyone directly or indirectly employed by them. In all events the City shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included this indemnification provided herein.

The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

This indemnification shall survive the termination of this Agreement.

16.23. Corporate Representations by Contractor – Article XXIII

Contractor hereby represents and warrants to the City the following:

- a. Contractor is duly registered to do business in the State of Florida and is in good standing under the laws of Florida, and is duly qualified and authorized to carry on the functions and operations set forth in the Agreement.
- b. The undersigned representative of Contractor has the power, authority, and legal right to execute and deliver this Agreement on behalf of Contractor.

16.24. No Joint Venture – Article XXIV

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

16.25. Third Party Right – Article XXV

Nothing in this Agreement shall be constructed to give any rights or benefits to anyone other than City and Contractor.

16.26. Assignment – Article XXVI

- a. Contractor shall not assign or subcontract this Agreement, any task authorization hereunder, or any rights or any Moines due or to become due hereunder without the prior, written consent of City.
- b. If upon receiving written approval from city, any part of this Agreement is subcontracted by Contractor, Contractor shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

- c. If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Contractor who shall take immediate steps to remedy the situation.
- d. If any part of this Agreement is subcontracted by Contractor, prior to the commencement of any work by the subcontractor, Contractor shall require the subcontractor to provide city and its affiliates with insurance coverage as set forth by the City.

16.27. Designation of Project Manager - Article XXVII

The duties and authority of the City are as follows:

- a. **General Administration of Contract.** The primary function of the City is to provide the general administration of the contract. In performance of these duties and responsibilities, the authorized representative is the designated City Project Manager during the entire period of construction. The City may change the Project Manager during the term of this contract.
- b. **Inspections, Opinions, and Progress Reports.** The City shall be kept familiar with the progress and quality of the work by Contractor and may make periodic visits to the work site. The City will not be responsible for the means of construction, or for the sequences, methods, and procedures used therein, or for the Contractor 's failure to perform the work in accordance with the Contract Documents.
- c. **Access to Worksite for Inspections.** The City shall be given free access to the worksite at all times during work preparation and progress. The Project Manager is not obligated to make exhaustive or continuous onsite inspections to perform his duties of checking and reporting on work progress, and any such inspections shall not waive Owner's claim regarding defective work by Contractor.
- d. **Interpretation of Contract Documents: Decisions on Disputes.** The City will be the initial interpreter of the contract document requirements, and make decisions on claims and disputes between Contractor and City.
- e. **Rejection and Stoppage of Work.** The City shall have authority to reject work which in its opinion does not conform to the Contract Documents, and in this connection may stop the work or a portion thereof, when necessary.
- f. **Payment Certificates.** The City will determine the amounts owing to Contractor as the work progresses, based on Contractor 's applications and City 's inspections and observations, and will issue certificates for progress payments and final payments in accordance with the terms of the Contract Documents.

16.28. Progress Meeting – Article XXVIII

City’s Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the City, during the term of work entered into under this Agreement. Contractor's Project Manager and all other appropriate personnel shall attend such meetings as designated by the City’s Project Manager.

16.29. Responsibilities of Contractor – Article XXIX

Contractor's duties and rights in connection with the project herein are as follows:

- a. **Responsibility for Supervision and Construction.** Contractor shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures and means, for the coordination of all work. Contractor shall supervise and direct the work, and give it all attention necessary for such proper supervision and direction.
- b. **Discipline and Employment.** Contractor shall maintain at all times strict discipline among his employees, and he agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.
- c. **Furnishing of Labor, Materials, etc.** Contractor shall provide and pay for all labor, materials and equipment, including tools, construction equipment and machinery, utilities, including water, transportation, and all other facilities and work necessary for the proper completion of work on the project in accordance with the Contract Documents.
- d. **Payment of Taxes: Procurement of Licenses and Permits.** Contractor shall secure all licenses and permits necessary for proper completion of the work, paying the fees thereof. Contractor warrants that it (and subcontractors or tradesmen, if authorized in the Contract Documents) hold or will secure all trade or professional licenses required by law for Contractor to undertake the contract work.
- e. **Guarantee.** The Contractor hereby guarantees the Work to the full extent provided in the Plans, Specifications, General Conditions, Special Conditions and other Contract Documents. The Contractor shall remove, replace and/or repair at its own expense and at the convenience of the City any faulty, defective or improper Work, materials or equipment discovered within one (1) year from the date of the acceptance of the project as a whole by the Owner or for such longer period as may be provided in the Plans, Specifications, General Conditions, Special Conditions or other Contract Documents. Without limiting the generality of the foregoing, the Contractor warrants to the City, that all materials and equipment furnished under this Agreement will be of first-class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Agreement will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in this Agreement and in the Contract, Documents shall be in addition to and not in limitation of all other warranties or remedies required and/or arising pursuant to applicable law. Furthermore, Contractor will provide written guarantee for work and materials for one (1) calendar year after acceptance by City. The one (1) period is not a limitation upon manufacturer warranties or Contractor's payment and performance Bond(s).

16.30. Prohibition Against Contingent Fees – Article XXX

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee

working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

16.31. Public Records – Article XXXI

Pursuant to Chapter 119, Florida Statutes, Contractor agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Contractor related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Contractor. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission of Contractor are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

Upon request by the City, the Contractor shall promptly supply copies of said Public Records to the City. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during normal business hours of the Contractor be open and freely exhibited to the City for the purpose of examination and/or audit. Failure by Contractor to grant such access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If the Contractor fails to comply with this Section, and the City must enforce this Section, or the City suffers a third-party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Contractor's failure to comply with this Section, the City shall collect from Contractor prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Contractor. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of the Contractor's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

16.32 Force Majeure – Article XXXII

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

16.33. FDOT Conflict of Interest Provisions – Article XXXIII (NOT APPLICABLE)

The Contractor agrees as follows and agrees to include in each subcontract and shall require all subcontractors to include in each second tier subcontract the following:

- A. The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulation of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the FDOT-required attachment, Title VI Assurances, in all contracts with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.
- B. The Contractor will comply with all requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the City pursuant thereto.
- C. 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 on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for construction or repair of a public building or public work; may not submit bids or 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 from the date of being placed on the convicted vendor list.
- D. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids or 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.
- E. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the City.
- F. The Contractor shall not enter into any contract, subcontract, or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer, or employee of the City, the Contractor, or its subcontractor or the locality during tenure or for 2 years thereafter has any interest, direct or indirect.

16.34. Inspector General - Article XXXIV

The Parties agree to comply with s. 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s. 20.055(5), Florida Statutes, which provides: “It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate

with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section.”

16.35. Federally Required Contract Clauses – Article XXXV

A. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Compliance with the Contract Work Hours and Safety Standards Act

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

C. Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, Federal awarding agency and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

D. Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and , the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

F. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

G. Procurement of Recovered Materials

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site,

<https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

H. Access to Records

The following access to records requirements applies to this contract:

(1) The contractor agrees to provide the City, the State of Florida, the federal funding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the State of Florida, the federal funding agency, or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

I. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, procedures, and directives.

J. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

K. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

L. Compliance with the Davis-Bacon Act

a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

c. Additionally, contractors are required to pay wages not less than once a week.

d. The Contractor agrees to include these Davis-Bacon Act requirements in each subcontract.

M. Copeland "Anti-Kickback" Act

a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the City or any federal funding or state funding agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

CONTRACTOR

Signed and sealed by the Contractor in the presence of:

BY: _____
(Contractor)

ATTEST: _____

CITY OF COCOA

Signed and sealed by the City in the presence of:

BY _____
(City Manager)

ATTEST _____

17. Corporate Principal Certificate

I, _____, certify that I am the _____ secretary of the corporation named as Principal in the within Bid Bond; that _____ who signed the said Bid Bond on behalf of the Principal was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said Bid Bond was duly signed, sealed and attested for in behalf of said corporation by authority of its governing body.

Signature

Title

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known

Or

Produced Identification

Notary Public

Print Name: _____

My Commission expires: _____

18. Performance and Payment Bond

In compliance with the Florida Statutes Chapter 255.05 (1) (a)

BOND NO.:	
Contractor Name:	
Contractor Address:	
Contractor Phone No.:	
Surety Company:	
Surety Agent:	
Owner Name:	City of Cocoa
Owner Address:	65 Stone St. Cocoa, Florida 32922
Owner Phone No.	(321) 433-8833
Owner Fax No.	(321) 433-8860
Owner Email:	Purchasing@cocoaf1.org
Contract Date:	
Contract Amount:	\$
Bond Amount:	\$
Contract No. (if applicable):	
Description of Work:	Cocoa Riverfront Park Promenade Improvements
Project Address:	430 Delannoy St, Cocoa FL 32922
Legal Description:	Parcel ID 24-36-33-06-*-11
Bid Number:	B-20-08-COC

BY THIS BOND, we _____ as Principal
and _____ a Corporation as Surety,
are bound to City of Cocoa, herein called Owner, in the sum
of \$ _____, for payment of which we bind
ourselves, our heirs, Personal representatives, successors, and assigns, jointly and severally.

CONDITIONS OF THIS BOND if Principal:

- a. Performs the contract dated _____, 20_____, between Principal and Owner for Sidewalk Improvements as specified for the Dixon Blvd and Forrest Ave location as the contract being made a part of this bond by reference, at the times and in the manner prescribed in this contract; and
- b. Promptly makes payments to all claimants, as defined in section 255.05 (1) Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution if the work provided for the contract; and
- c. Pays Owner all losses, damages, expenses, cost and attorney’s fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
- d. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, and shall remedy any defects in the work due to faulty materials or workmanship or failure to properly maintain during the length of the Contract, and pay for all damage to other work, person, or property resulting there from, which shall appear within a period of one (1) year from the date of final acceptance of the work provided for in the Contract, then this bond is to be void; otherwise it remains in full force and effect.

IN WITNESS WHEREOF, the said Principal and Surety have assigned and sealed this instrument this _____ day of _____ 20_____.

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Signature _____

Title _____

SURETY

Company:

(Corporate Seal)

Signature _____

Title _____

APPROVED as to form and execution:

BY _____
Attorney to Board of
City Council Members
City of Cocoa, Florida

Any claims under this bond may
be addressed to:
(Name and Address of Surety):

Phone _____

Telephone Number
Name and Address of
agent or Representative
in Florida if Different from above

Phone _____

19. Certificate of Liability Insurance

Insert business' current liability insurance certificate.

20. Affidavit Regarding Workmen's Compensation

(Authorized Signature) _____ _____
Name of Business Phone & Fax Number

(Printed Name and Title) _____ _____
Business Mailing Address City, State, Zip

_____ being duly sworn according to law, deposes and says (it, he they) has accepted the Workmen's Compensation laws of the State of Florida, with its supplements and amendments and _____ insured (its, his, their) liability thereunder in accordance with the terms of said Laws with the _____ Company, under the terms of Policy No. _____ for a period from _____, 20____ to _____, 20____.

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known

Or

Produced Identification

Notary Public

Print Name: _____

My Commission expires:

21. Certificate of Insurance for Workmen's Compensation

This is to certify that _____,
Company has issued to _____,
of the City of _____, State of _____,
the following policy or policies: Workmen's Compensation and Employer's Liability
Policy No. _____ effective on _____, 20 ____.
re _____ Policy No. _____
effective on _____, 20 ____ and expiring on _____
_____ 20 ____ re _____ limits _____
_____.

If at any time this coverage is to be cancelled, the undersigned will notify the insured and the City of Cocoa, Purchasing Department in writing thirty (30) days prior to cancellation of policy.

(This certificate must be made by a duly authorized official of the Insurance Company carrying the risk, or a separate certificate of similar context executed on Insurance Company's Standard Form may be attached hereto.)

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known

Or

Produced Identification

Notary Public

Print Name: _____

My Commission expires: _____

22. Section 1K – Florida Trench Safety Act

(Certification and Discharge Statement Mandatory)

Bidder acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The bidder further identifies the costs to be summarized below.

	Item	Trench Safety Measure Description	Unit of Measure	Unit	Unit Cost	Extended Cost
A						
B						
C						
D						

These units, costs, and the unit prices inferred shall be disclosed solely for the purpose of compliance with the procedural requirements of the Florida Trench Safety Act.

This amount disclosed as the cost of compliance with the applicable trench safety requirement does not constitute the extent of the Contractor's obligation to comply with said standards. Contractor shall expend additional sums, at no additional cost to the OWNER (except as may otherwise be provided), which are necessary to so comply.

Acceptance of the bid to which this certification and disclosure applies in no way represents that the OWNER or its representatives have evaluated and thereby determined that the above costs are adequate to comply with the applicable trench safety requirements nor does it in any way relieve the bidder, as Contractor, of its sole responsibility to comply with the applicable trench safety requirements.

Name of Firm

Authorized Signature

Date: _____

This document shall be submitted with the Bid packet. Failure to complete the above may result in the bid being declared non-responsive.

23. Davis-Bacon Act

Bidder acknowledges that all work commenced with this contract will adhere to Appendix II, 2 CFR 200 Davis Bacon Act as amended (40 U.S.C. 3141-3148):

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

24. Receipt and Release Liens

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned _____ of _____ was heretofore, on _____, 2_____, award a Contract by _____ for the Contract Price of \$ _____ to furnish all the materials and labor in the construction of a project entitled:

The Riverfront Promenade Overlook.

in accordance with the plans and specifications therefore, as prepared by City of Cocoa, and the undersigned has completed said work and fully complied with said Contract and has heretofore received the sum of \$ _____ as payment thereon.

That the undersigned has this date received from _____ the sum of \$ _____, representing the full balance due _____, as Contractor, under the terms of said Contract, and certified that said Contract has been fully performed in accordance with the terms thereof, and that _____ has paid in full all persons furnishing labor and/or materials in connection therewith, including all subcontractors and suppliers, and that there are no unpaid bills for labor performed or materials furnished in connection with said work or improvements.

That the undersigned, for value received, does hereby forever release and discharge the said _____ as described in the said Contract, from any and all liens, claims or demands whatsoever that _____ has or may have for work performed or materials furnished thereon by any subcontractor or supplier and that _____ will hold harmless the _____ from any and all loss liability arising or to arise by reason of any unpaid bills for labor performed or materials furnished on said project in connection with said work or improvements.

Contractor _____
 Witnessed by _____ by _____

Title _____
 State of: _____
 County of: _____

Before me, the undersigned authority, personally appeared _____, to me well known and known to me to be the person described in and who executed the foregoing instrument, and he acknowledged before me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the _____ day of _____, A.D., 2 _____.

Notary Public, State of

STATE OF _____

COUNTY OF _____

The foregoing instrument was worn to and subscribed before me on this _____ day of _____, 20____, by _____ the _____ of _____, a _____ (check one) who is personally known to me or who produced _____ as identification.

Personally Known
 Or
 Produced Identification

 Notary Public
 Print Name: _____
 My Commission expires: _____

25. Consent of Surety for Final Payment

Project Name _____

Location _____

Project No. _____ Contract No. _____

Type of Contract _____

Amount of Contract \$ _____

Amount of Contract _____
(In Words)

_____ (Dollars)

In accordance with the provisions of the above-named contract between the Owner and the Contract, the following named surety:

_____ on the Payment Bond the following named Contractor: _____

_____ hereby approves of final payment to the contractor, and further agrees that said final payment to the Contractor shall not relieve the Surety Company named herein of any of its obligations to the following named Owner: as set forth in said Surety company's bond:

IN WITNESS WHEREOF, the Surety Company has hereunto set its hand and seal this

_____ day of _____ 20_____.

(Name of Surety Company)

(Signature of Authorized Representative)

(Affix Corporate Seal)

(Title)

26. General Conditions

Article	Title
1	Definitions
2	Execution, Correlation and Intent of Documents
3	Detail Drawings and Instructions
4	Copies of Drawings Furnished
5	Order of Completion
6	Drawings and Specifications on the Work
7	Ownership of Drawings
8	Contractor's Understanding
9	Materials, Appliances, Employees
10	Royalties and Patents
11	Survey's, Permits and Regulations
12	Protection of Work and Property
13	Inspection of Work
14	Superintendent: Supervision
15	Changes in Work
16	Claims for Extra Cost
17	Deductions for Uncorrected Work
18	Delays and Extensions of Time
19	Corrections of Work Before Final Payments
20	Suspension of Work
21	City's Right to Reassign Work
22	City's Right to Terminate Contract
23	Contractor's Right to Stop Work or Terminate Contract
24	Removal of Equipment
25	Use of Completed Portions
26	Payments Withheld
27	Contractor's Liability Insurance
28	Indemnity
29	Safety and Protection
30	Guaranty Bonds
31	Damages
32	Liens
33	Assignment
34	Preconstruction Conference
35	Subcontracts
36	Points and Instructions
37	Project Manager's Status
38	Project Manager's Decision
39	One Year Correction Period
40	Lands for Work
41	Clean Up

26.1. Article 1. DEFINITIONS

- (A) The contract documents consist of the following items, including all modifications thereof incorporated in the documents before their execution. These form the contract: Notice to Contractors, Instructions to Bidders, General Conditions, Special Provisions, Technical Provisions, Proposal, Agreement, Drawings, and Addenda pertaining to the contract.
- (B) The Contractor and Project Manager are mentioned as such in the Agreement. They are treated throughout the contract documents as if each were of the singular number and masculine gender.
- (C) Wherever in this contract the words "Project Manager or Engineer" are used, it shall be understood as referring to the Project Manager or Engineer employed by the City, acting personally or through an assistant duly authorized in writing for such act by the Project Manager.
- (D) Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended or if delivered at or sent by registered mail to the business address shown in the proposal or contract.
- (E) The term "Subcontractor" as employed herein, includes only those having a direct contract with the Contractor and it includes one who furnished material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked.
- (F) The term "Work" of the Contractor or Subcontractor includes labor or materials or both, equipment, transportation, or other facilities necessary to complete the contract.
- (G) All time limits stated in the contract documents are of the essence of the contract.
- (H) The term "Change Order" is a written order signed by the Project Manager authorizing an addition, deletion or revision in the work or adjustment in the contract price.

26.2. Article 2. EXECUTION, CORRELATION AND INTENT OF DOCUMENTS

The Agreement shall be signed in triplicate by the City and the Contractor. Customary practice does not involve signatures of either party of the separate or supplementary components of the contract documents. The Project Manager will identify the plans and specifications upon request.

The contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intent of the documents is to include all labor and materials, equipment, transportation and incidentals necessary for the proper and complete execution of the work. Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

Any discrepancies or omissions found in the Contract Documents shall be reported to the Project Manager immediately. The Project Manager will clarify discrepancies or omissions, in writing, within a reasonable time.

In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

- A. FORM OF AGREEMENT
- B. PROPOSAL
- C. SPECIAL PROVISIONS
- D. INSTRUCTIONS TO BIDDERS
- E. GENERAL CONDITIONS
- F. TECHNICAL PROVISIONS
- G. DRAWINGS

Addenda shall take precedence over all sections referenced therein. Figure dimensions on Drawings shall take precedence over scale dimensions. Detailed Drawings shall take precedence over general drawings.

26.3. Article 3. DETAIL DRAWINGS AND INSTRUCTIONS

The Project Manager will furnish, with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions will be consistent with the contract documents, true developments thereof and reasonably inferable therefrom.

26.4. Article 4. COPIES OF DRAWINGS FURNISHED

Unless otherwise provided in the contract documents, the City will furnish to the Contractor, free of charge, all copies of drawings and specifications reasonably necessary for the execution of the work.

26.5. Article 5. ORDER OF COMPLETION

The Contractor shall submit prior to start of work, schedules which show the order in which the Contractor proposes to carry on the work with dates at which the Contractor will start the several parts of the work and estimated dates of completion of the several parts. The Project Manager may order the schedule to be supplemented or amended as necessary to afford proper continuity of the work.

26.6. Article 6. DRAWINGS AND SPECIFICATIONS ON THE WORK

The Contractor shall keep one copy of all drawings and specifications on the work in good condition, available to the Owner and his representatives.

26.7. Article 7. OWNERSHIP OF DRAWINGS

All drawings, specifications and copies thereof furnished by the Owner are his property. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to him on request, at the completion of the work.

26.8. Article 8. CONTRACTOR'S UNDERSTANDING

It is understood and agreed that the Contractor has, by careful examination of the contract documents and work site satisfied himself as to the nature and location of the work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of the equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the Owner, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained.

26.9. Article 9. MATERIALS, APPLIANCES, EMPLOYEES

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, fuel, labor, water, tools, sanitary facilities, power, transportation, and other facilities necessary for the execution and completion of the work.

Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him.

26.10. Article 10. ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof except that the Owner shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, unless the owner has notified the Contractor prior to the signing of the contract or included in the specifications a proviso that there may be a patented process or product included in the project.

26.11. Article 11. SURVEYS, PERMITS, AND REGULATIONS

The Contractor will furnish all surveys unless otherwise specified. Permits and licenses necessary for the prosecution of the work shall be secured and paid for by the Contractor. All City of Cocoa fees will be waived.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulation bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the City in writing and any necessary changes shall be adjusted as provided in the contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulation and without such notice to the Owner, he shall bear all costs arising therefrom.

26.12. Article 12. PREOTECTION OF WORK AND PROPERTY

The Contractor shall continuously maintain adequate protection for all his work from damage and shall protect the Owner's property from injury or loss arising in connection with the contract. He shall make good any such damage, injury or loss. He shall adequately protect adjacent property as provided by law and the contract documents. He shall provide and maintain all guard fences, lights, and other facilities for protection required by public authority or local conditions.

In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instructions or authorization from the Owner, is hereby permitted to act, at his discretion, to prevent such threatened losses or injury. Any claim by the Contractor on account of emergency work will be adjusted by agreement or arbitration.

26.13. Article 13. INSPECTION OF WORK

The City and its representatives shall at all times have access to the work. The work will be conducted under the general direction of the City and is subject to inspection by his appointed inspectors to insure compliance with the terms of the contract. No inspector is authorized to change any provision of the specifications without written authorization of the Project Manager, nor shall the presence or absence of an inspector relieve the Contractor from any requirements of the contract.

If the specifications, the City's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, the Contractor shall give the Owner timely notice of its readiness for inspection, and of the date fixed for such inspection. Inspections by the Project Manager will be promptly made.

Re-examination of requested work may be ordered by the Owner. If such work be found in accordance with the contract documents, the Owner will pay the cost of re-examination and replacement provided the Contractor makes a claim therefor. If such work be found not in accordance with the contract documents the Contractor shall pay such cost including compensation for professional services and an appropriate deductive change order shall be issued.

26.14. Article 14. SUPERINTENDENT: SUPERVISION

The Contractor shall keep on his work during its progress a competent superintendent satisfactory to the City. The superintendent shall not be changed except with the written consent of the City, unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in his employ. The superintendent shall represent the Contractor in his absence and all directions given to him shall be as binding as if given to the Contractor. Important directions will be confirmed in writing to the Contractor. Other directions will be so confirmed on written request in each case.

If the Contractor, in the course of the work, finds any discrepancy between the drawings and the physical conditions of the locality, or any errors or omission in the drawings or in layout as given by points and instruction, it shall be his duty to immediately inform the City, in writing, and the City will promptly verify the same. Any work done after such discovery, until authorized will be done at the Contractor's risk. Neither party shall employ or hire any employees of the other party without his consent.

26.15. Article 15. CHANGES IN THE WORK

The City, without invalidating the contract, may order extra work or make changes by altering, adding to, or deducting from the work, the contract sum being adjusted accordingly. All such work authorized by change order and executed under the conditions of the original contract except that any claim for extension of time caused thereby will be adjusted at the time of ordering such change.

In giving instructions, the Project Manager will have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purpose of the work, but otherwise, except in an emergency endangering the life of property, no extra work or change will be made unless in the pursuance of a written order by the Project Manager, and no claim for an addition to the contract sum will be valid unless so ordered in writing.

The value of any such extra work or change will be determined in one or more of the following ways:

- (A) By mutual acceptance of a lump sum.
- (B) By unit prices named in the contract or subsequently agreed upon.
- (C) By cost and percentage or by cost and a fixed fee.

If none of the above methods is agreed upon, the Contractor, provided he receives an order as above, shall proceed with the work. In such case and also under case (C), he shall keep and present in such form as the Project Manager may direct, a correct account of the net cost of labor and materials, together with vouchers. In any case, the Project Manager will certify to the amount, including reasonable allowances for overhead and profit, due to the Contractor. Pending final determination of value, payments on account of changes will be made on the Project Manager's estimate.

26.16. Article 16. CLAIMS FOR EXTRA COST

If the Contractor claims that any instructions by drawings or otherwise involve extra cost under this contract, he shall give the Owner written notice thereof with ten (10) days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided in Article 15, "Changes in the Work." Claims will not be processed unless filed in writing before any work is commenced.

26.17. Article 17. DEDUCTIONS FOR UNCORRECTED WORK

If the Project Manager deems it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price will be made therefor by change order.

26.18. Article 18. DELAYS AND EXTENSIONS OF TIME

If the Contractor is delayed at any time, in the progress of the work by an act or neglect of the Owner or of his employees, or by any other contractor employed by the Owner, or by changes ordered in the work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Project Manager pending arbitration, or

by any cause which the Project Manager may decide to justify the delay, then the time of completion may be extended for such reasonable time as the Project Manager may decide.

No such extension will be made for delay occurring more than seven (7) days before claim therefor is made in writing to the Project Manager. In the case of a continuing cause or delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay will be allowed on account of failure to furnish drawings until two weeks after demand for such drawings and not then unless such claim be reasonable.

This article does not exclude the recovery of damages for delay by either party under other provisions in the contract documents.

26.19. Article 19. CORRECTION OF WORK BEFORE FINAL PAYMENTS

The Contractor shall promptly correct all work condemned by the Project Manager as failing to conform to the contract and shall promptly replace and re-execute his own work in accordance with the contract and without expense to the Owner and shall bear the expense of making good all work.

If the Contractor does not correct such condemned work and material within ten (10) working days' time as fixed by written notice (punch list), the City may correct it at the expense of the Contractor. If the Contractor does not pay the expense of such correction within ten (10) days thereafter, the City may, upon ten (10) days written notice, deduct all the cost and expenses that should have been borne by the Contractor.

26.20. Article 20. SUSPENSION OF WORK

The City may at any time suspend the work, or any part thereof by giving five (5) days' notice to the Contractor in writing. The work shall be resumed by the Contractor within ten (10) days after the date fixed in a written notice to resume work from the City to the Contractor. The City will reimburse the Contractor for expense incurred by the Contractor in connection with the work under this contract as a result of such suspension unless the suspension was ordered by the Project Manager to enforce the contract or for any violation of the contract.

26.21. Article 21. THE CITY'S RIGHT TO REASSIGN WORK

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the City, after three (3) days written notice to the Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies at the Contractor's expense.

26.22. Article 22. THE CITY'S RIGHT TO TERMINATE CONTRACT

If the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if a writ of garnishment shall be served upon the City, seeking to reach funds due

or to become due the Contractor, or if the Government of the United States or any state or county shall garnishee, distrain, attach, or seek to reach funds due

or to become due to the Contractor, or if he should persistently or repeatedly refuse

or should fail, except in cases of which extension of time is provided, to supply enough properly skilled workmen or proper materials,

or if he should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances,

or the instructions of the Project Manager, or otherwise be guilty of a substantial violation of any provision of the contract, then the Owner, upon the certificate of the Project Manager that sufficient cause exists to justify such action may without prejudice to any other right

or remedy and after giving the Contractor thirty (30) days written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tool, and appliances thereon and finish the work by whatever method he may deem expedient.

In such case, the Contractor will not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the expense of finishing the work, including compensation for additional managerial, legal, and administrative services, such excess will be paid to the Contractor.

If such expense exceeds such unpaid balance, the Contractor shall pay the difference to the City. The expense incurred by the City as herein provided, and the damage incurred through the Contractor's default will be certified by the Project Manager and deducted by the City from any sums which would otherwise be due to the Contractor.

26.23. Article 23. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court, or other public authority for a period of three (3) months, through no act or fault of the Contractor or if anyone employed by him, or if the Project Manager should fail to issue any estimate for payment within seven (7) days after it is due, or if the City fails to pay the Contractor within twenty (20) days of its maturity and presentation, any sum certified by the Project Manager or awarded by arbitrators, then the Contractor may, upon seven (7) days written notice to the City stop work or terminate this contract and recover from the Owner payment for all work executed and any loss sustained upon any plant or materials and reasonable profit and damages.

26.24. Article 24. REMOVAL OF EQUIPMENT

In the case of annulment of this contract before completion, from any cause whatever, the Contractor, if notified to do so by the City, shall promptly remove any part or all of his equipment and supplies from the property of the City, failing which the City will have the right to remove such equipment and supplies at the expense of the Contractor, and the City shall have the right to store such equipment and

supplies at the Contractor's expense. The City shall incur no liability to the Contractor for loss or damage to the supplies and equipment so removed and/or stored.

26.25. Article 25. USE OF COMPLETED PORTIONS

The City will have the right to take possession of and use any substantially completed portion of the work, notwithstanding the fact that the time for completing the entire work or such portions may not have expired, but such taking possession and use will not be deemed an acceptance of any work not completed in accordance with the contract documents. If such prior use increases the cost of or delays the work, the Contractor will be entitled to such extra compensation, or extension of time, or both, as the Project Manager may determine.

26.26. Article 26. PAYMENTS WITHHELD

The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any pay request to such an extent as may be necessary to protect himself from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.
- c. Failure of the Contractor to make payment properly to subcontractors or for materials or labor.
- d. The Project Manager's opinion that the contract cannot be completed for the balance then unpaid.
- e. Failure to maintain adequate progress.

When the above grounds are removed, payment will be made for amounts withheld because of them.

26.27. Article 27. SAFETY AND PROTECTION

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- a. All employees on the Work and other persons who may be affected thereby.
- b. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.
- c. Other property at the site or adjacent thereto.

Individuals and firms contracting to perform work for the City of Cocoa shall comply with all applicable Federal Occupational Safety and Health Administration (OSHA) and Florida Department of Transportation safety standards and shall assure and monitor the compliance of their subcontractors with those same standards.

26.28. Article 28. GUARANTY BONDS

The City will have the right, prior to the signing of the contract to require the Contractor to furnish bond covering his faithful performance of the contract and the payment of all obligations arising

thereunder, in such forms as the City may prescribe and with such sureties as he may approve. Premium for such bond shall be paid by the Contractor.

26.29. Article 29. DAMAGES

Any claim for damage arising under this contract shall be made in writing to the party liable with ten (10) days after the first observance of such damage and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials.

26.30. Article 30. LIENS

Anything contained in any of the contract documents notwithstanding, all progress payments and the final payment shall be paid by the City to the Contractor in compliance with the provisions of Laws of Florida. The City shall withhold ten percent (10%) of the amount of each progress payment. The last payment due under the contract shall be paid by the City to the Contractor only after the Contractor has furnished the City with an affidavit stating that all persons, firms or corporations who have furnished labor or materials, employed directly or indirectly in the work, have been paid in full, and in addition, before the Contractor shall have the right to receive the final payment due under the contract, the Contractor shall furnish the City with releases of lien executed by all persons, firms or corporations who have performed or furnished labor, services or materials, directly or indirectly, used in the work.

The City shall have the right to demand and receive from the Contractor before he shall receive any progress payment, receipt bills showing payment in full for all labor, services and materials incorporated into the work, for the period of time for which the progress payment is due. Likewise, as a condition to receiving any progress payment, the City may require the Contractor to furnish any partial releases of lien executed by all persons, firms and corporations who have furnished labor, services or materials incorporated into the work during the period of time for which the progress payment is due, releasing such lien rights as these persons, firms or corporations may have for that period.

If any of the laborers, subcontractors or material men shall serve upon the City a "notice to City" or shall otherwise put the City on notice that they are owed any unpaid money by the Contractor, the shall have the right to pay these persons directly in the manner provided by the aforesaid Mechanic's Lien Law, and the City shall receive a credit therefor upon the contract price accordingly. The Contractor does hereby release, remise and quit claim any and all rights he would have otherwise enjoyed to perfect a mechanic's lien or any other type of statutory common law or equitable lien against the job.

26.31. Article 31. ASSIGNMENT

Neither party to the contract shall assign the contract or sublet it as a whole without the written consent of the City, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the previous written consent of the City. Any attempt by the Contractor to assign this contract or any of the moneys which may become payable hereunder, in whole or part, without the written consent of the Owner, shall be ineffective and shall vest no rights in the assignee.

26.32. Article 32. PRECONSTRUCTION CONFERENCE

Within twenty (20) days after the effective date of the Agreement, but before the Contractor starts the Work at the site, a mandatory conference will be held for review and acceptance of the schedules, to establish procedures for handling shop drawings and other submittals and for processing applications for payment, and to establish a working understanding among the parties as to the Work, including Davis Bacon Wage Rate Requirements for Federally Funded Projects.

26.33. Article 33. SUBCONTRACTS

The Contractor shall, as soon as practicable after signing of the contract, notify the City in writing of the names of subcontractors proposed for the work, the description of work to be performed, and shall not employ subcontractors, unless they are approved in writing by the City.

The Contractor agrees that he is as fully responsible to the City for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the City.

26.34. Article 34. POINTS AND INSTRUCTIONS

The Contractor shall provide reasonable and necessary opportunities and facilities for setting points and making measurements. He shall not proceed until he has made timely demand upon the Project Manager for, and has received from him such points and instructions as may be necessary as the work progresses. The work shall be done in strict conformity with such points and instructions.

26.35. Article 35. PROJECT MANAGER'S STATUS

The Project Manager will have general supervision and direction of the work. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the contract. He will also have authority to reject all work and materials which do not conform to the contract, to direct the application of forces to any portion of the work, as in his judgment is required, and to order the force increased or diminished and to decide questions which arise in the execution of the work.

26.36. Article 36. PROJECT MANAGER'S DECISIONS

The Project Manager will, within reasonable time after their presentation to him, make decisions in writing on all claims of the Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the contract. All such decisions of the Project Manager shall be final.

26.37. Article 37. ONE YEAR CORRECTION PERIOD

If within one (1) year after the date of substantial completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the contract documents or by any specific provision of the contract documents, any work is found to be defective, the Contractor shall promptly, without cost to the City and in accordance with the City's written instruction, either correct such defective work, or, if it has been rejected by the City, remove it from the site and replace it with no defective work.

If the Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

26.38. Article 38. LANDS FOR WORK

The City will provide access to the lands upon which the work under this contract is to be done.

26.39. Article 39. CLEANING UP

The Contractor shall remove from the City's property and from all temporary structures, rubbish and waste materials resulting from his operation.

26.40. Article 40. AMENDED PROPOSAL/BID

A Bidder may submit an amended proposal/bid before the deadline for receipt of proposals/bids. Such amended proposal/bid must be a complete replacement for a previously submitted proposal/bid and must be clearly identified as such in the transmittal letter which must include an authorized signature and be attached to the outside of the sealed replacement proposal/bid package.

27. No Bid Response to Invitation to Bid

IF YOUR FIRM IS UNABLE TO SUBMIT A BID AT THIS TIME, PLEASE PROVIDE THE INFORMATION REQUESTED IN THE SPACE BELOW AND RETURN TO:

CITY OF COCOA
Purchasing Division
65 Stone St.
Cocoa, Florida 32922

WE HAVE RECEIVED AN INVITATION TO BID # B-20-08-COC

Cocoa Riverfront Park Promenade Improvements

OPENING DATE: **December 2, 2019**

OPENING TIME: **3:30 p.m.**

REASON FOR NOT BIDDING: _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Signature: _____ Title: _____

Date: _____

END OF BID PACKAGE



CITY OF COCOA

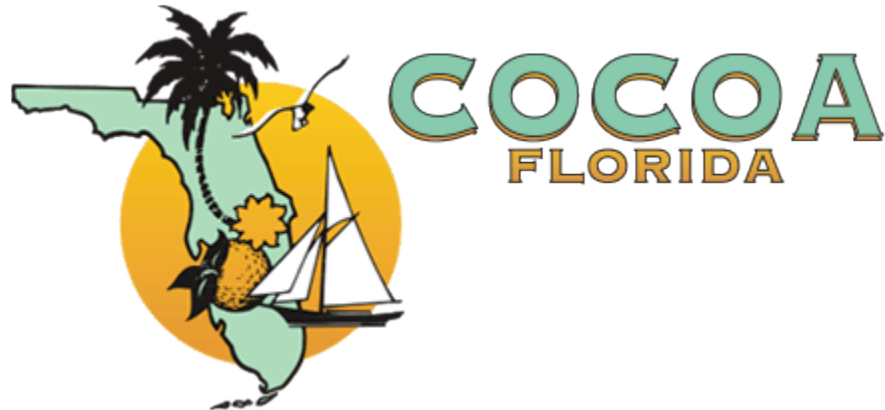
BID TABULATION SHEET

BID OPENING DATE: Thursday, December 5, 2019

BID NUMBER: B-20-08-COC Cocoa Riverfront Park Promenade Improvements

VENDOR	Invitation to Bid Pg.7	Instruction to Bidders Pg.12-17	Scrutinized Company Certification Pg.18-19	Certificate of Debarment & Suspension (Primary) Pg. 20-21	Certificate of Debarment & Suspension (Lower Tier) Pg. 22-23	Bidder's Certification Pg.24	BID ACKNOWLEDGEMENT FORM Pg.27 -28 Total Base Bid	Bid Form Pg.29 Unit Pricing	Exceptions Pg. 30	Business References Pg.31	Statement of Bidder's Qualifications Pg. 32-34	Listing of Sub Contractors Pg. 35	Bid Bond Pg.36	Non-Collusion Affidavit Pg.37	Drug Free Pg. 38	Conflict of Interest Statement Pg.39-40	Form of Agreement Pg.41-60	Corporate Principal Certificate Section-17 (1-Pg)	Performance and Payment Bond Section-18 (3-Pgs)	Certificate of Liability Insurance	No Bid Response Pg. 25	
Florida Home & Dock Life, LLC 2460 N. Courtenay Pkwy. Ste-203 Merritt Island, FL 32953							DISQUALIFIED - NOT AT MANDATORY PRE-BID MEETING - NOT IN A SEALED ENVELOPE															
C&D Construction, Inc. 395 South Range Road Cocoa, FL 32926	Y	Y	Y	Y	Y	Y	\$993,000.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Canaveral Construction Co. PO Box 799 Mims, FL 32754	Y	N	Y	Y	Y	Y	\$952,909.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y		
Welsh Construction, LLC 3845 W. Eau Gallie Blvd. Suite 101 Melbourne, FL 32934	Y	Y	Y	Y	Y	Y	\$1,652,922.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Doug Wilson Enterprises, Inc. 6121 North Atlantic Ave. Suite 102 Cape Canaveral, FL 32920	Y	N	Y	Y	Y	Y	\$1,185,685.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y		
Rush Marine LLC 6285 Riverfront Center Blvd. Titusville, FL 32780	Y	Y	Y	Y	Y	Y	\$989,618.00	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	

ORIGINAL



**COCOA RIVERFRONT PARK PROMENADE
IMPROVEMENTS PROJECT**

BID# B-20-08-COC

December 5, 2019 at 3:00 PM



Presented By:

RUSH Marine, LLC
6285 RIVERFRONT CENTER BLVD.
TITUSVILLE, FL 32780
321-267-8100


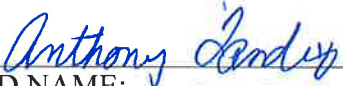


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1. Invitation to Bid

SUBMIT BID TO: CITY OF COCOA FINANCE DEPARTMENT PURCHASING DIVISION 65 Stone St. COCOA, FLORIDA 32922 Third Floor PH: 321-433-8833		 INVITATION TO BID Bidder Acknowledgement FORM NO. 00019	
BUYER: Heath Hancher		TELEPHONE #: 321-433-8833	FAX #: 321-433-8860
MAILING DATE: November 1, 2019	BID TITLE: Cocoa Riverfront Park Promenade Improvements		BID NUMBER: B-20-08-COC
BID SUBMITTAL DATE AND TIME: December 2, 2019 at 3:00 p.m.	BID OPENING TIME AND LOCATION: 3:30 p.m. Purchasing Division Office, Cocoa City Hall, 65 Stone St. Cocoa, FL 32922, Third Floor, Room 311		Bids Received After Submittal Date and Time Will Not Be Accepted.
PRE BID LOCATION: Purchasing 3 rd Floor Conference Room at City Hall, 65 Stone Street, Cocoa, FL 32922		TIME: 10 am	DATE: November 15, 2019
BIDDER NAME: RUSH Marine, LLC			
MAILING ADDRESS: 6285 Riverfront Center Blvd.			
CITY-STATE-ZIP: Titusville, FL 32780			
EMAIL ADDRESS: Tlandry@rushinc.com		TELEPHONE NO: 321-267-8100	
		FAX NO: 321-267-9944	
AUTHORIZED SIGNATURE (MANUAL): 		TITLE: President	
TYPED/PRINTED NAME: Anthony Landry		DATE: 12/5/2019	
BIDDER'S CERTIFICATION			
<p>I certify that I have carefully examined the instructions to Bidder/general Conditions, Invitation to Bid, Specification, and any other documents accompanying or made a part of this Invitation. I Further certify that all information contained in this bid is truthful to the best of my knowledge and belief and that I am duly authorized to submit this bid on behalf of the vendor/contractor and that the vendor/contractor is ready, willing, and able to perform if awarded the bid.</p> <p>In compliance with this Invitation to Bid, and subject to all conditions herein, I hereby offer and agree to furnish the goods and /or services specified in the Invitation at the prices or rates quoted in my bid, including the following:</p> <p>Bid prices will remain firm for a period of ninety (90) days in order to allow the City adequate time to evaluate the bids.</p>			

REASON FOR NO BID (Check all boxes that apply):

- Not enough bid response time
- Specification unclear
- Our company does not handle this item/service
- Our company does not submit bids to Municipalities
- Other: (please explain)

Method bidder was informed of bid (check appropriate box):

- Received invitation by direct mail
- Viewed bid posting on Internet home page
- Read legal ad in newspaper
- Viewed through bid reporting service
- Other: (please explain)

THE CITY OF COCOA RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS/PROPOSALS OR ANY PORTION THEREOF, WITH OR WITHOUT CAUSE, TO WAIVE TECHNICAL ERRORS AND INFORMALITIES AND TO ACCEPT THE BIDS/PROPOSALS WHICH, IN ITS JUDGEMENT, BEST SERVES THE CITY.

Return This Form with Required Bid Submittal Documents

2.1. Instructions to Bidders

2.1.1. Submission of Proposals

Sealed bids shall be received at the time and place designated herein and then publicly opened and read aloud, for furnishing all materials, transportation, labor, equipment and performing all operations required for the completion of the work herein specified and instructed within the contract documents.

2.1.1. Delivery of Proposals

The clock located in the Cocoa City Hall lobby, at the reception desk, shall be the official time for submitting any bid documents. A Bid, whether mailed or delivered in person, shall be submitted in a sealed envelope, bearing on the outside the name of the Bidder and his/her address, and clearly marked **BID # B-20-08-COC, Cocoa Riverfront Park Promenade Improvements** will be received until 3:00pm, **December 2, 2019** and addressed to **“Purchasing Manager, Cocoa City Hall, 65 Stone St., Cocoa, Florida 32922”**. Bids will be opened at 3:30 p.m. on the same day in the Purchasing Division Office, Cocoa City Hall, 3rd floor conference room. Potential bidders may obtain one (1) set of Bidding Documents from DemandStar by Onvia at www.demandstar.com or by calling 1-800-711-1712.

A mandatory pre-bid conference is / is not required or scheduled on **November 15, 2019** in the 3rd Floor conference room at Cocoa City Hall, 65 Stone St., Cocoa, Florida 32922, Brevard County, Florida.

A Bid Bond or a certified or cashier's check from a National or State Bank in a sum of not less than five percent (5%) of the amount of the bid, made payable to the City of Cocoa, shall accompany each bid as a guarantee that the bidder will not withdraw from the competition for a period of ninety (90) days after opening of bids.

2.1.2. Submittal Requirements

Bidders shall submit their proposal in DUPLICATE one (1) original and one (1) copy of the forms, in addition to one electronic copy of the submittal on a USB drive or CD furnished herewith. The blank spaces shall be filled in correctly for each item for which a Bid is tendered. The Bidder shall state the price, typewritten or written in ink. Each bid submitted shall include all Sections listed in section 00299-Check list for sealed bids (in order).

Pursuant to the requirements of Section 287.133, Florida Statutes, pertaining to the sworn statement on Public Entity Crimes and the Convicted Vendor List, a statement is no longer required as part of the bid submittal; however, bidders are subject to the provisions of Section 287.133, Florida Statutes, whereby the State maintains a convicted vendor listing which excludes those suppliers from bid submittal for a period of thirty-six (36) months.

Potential vendors will be required to complete and submit a form, provided herein, acknowledging compliance with Section 287.087, Florida Statutes, and Drug-Free Workplace.

2.1.3. Questions, Discrepancies or Omissions

In case a Bidder finds a document discrepancy or omission, or is in doubt as to the meaning of any document, he/she should immediately notify the Office of the Purchasing Manager, 65 Stone St., Cocoa, Florida 32922 (Phone: (321) 433-8833). Written instructions, in the form of an addendum, will then be issued to all Bidders that have received a Bid Package. Should you have any technical or questions or questions about how to submit your bid, please contact Heath Hancher at (321) 433-8833 or email at hhancher@cocoafl.org.

2.1.4. Right to Reject

The City reserves the right to accept or reject any or all bids and may waive any informality in any proposal. Award of bid shall be made to the bidder that best serves the interest of the City of Cocoa, Florida.

2.1.5. Correction or Withdrawal of Bids

Correction or withdrawal of inadvertently erroneous bids shall be permitted up to the time of bid opening. After bid opening, no changes in bid prices or other provisions shall be permitted; provided, however, the Purchasing Manager shall have the authority to waive minor irregularities.

2.1.6. Americans with Disabilities Act

Person(s) with disabilities needing a special accommodation to participate in this proceeding should contact the Office of the Purchasing Division at 65 Stone St., Cocoa, Florida 32922, office: (321) 433-8833, no later than seven (7) business days prior to the date on which the accommodation is required.

2.1.7. Florida Prompt Payment Act

As defined in 218.73, Florida Statutes, for purposes of billing submission and payment procedures, a "Proper Invoice" by contractor, vendor or other invoicing party shall consist of at least all of the following:

- a. A description (including quantity) of the goods and/or services provided to the City (or a party on behalf of the City) reasonably sufficient to identify it (or them).
- b. The amount due, applicable discount(s), and the terms thereof;
- c. The full name of the vendor, contractor or other party who is supplying the goods and/or services including a mailing address in case of a dispute and a mailing address for payment purposes (if they are different) and a telephone number;
- d. The Purchase Order or Contract number as supplied by the City; and
- e. An identification by Bureau, Office or Department of the party(ies) to whom the goods were delivered or services provided.

All invoices, in order to be classified as a proper invoice, shall be delivered to Accounts Payable, Finance Department, City of Cocoa, 65 Stone St., Cocoa, Florida 32922.

Finally, in addition to all of the above, in order to be considered a proper invoice, it must be based on a proper delivery, installation, or provision of the goods and/or services to and acceptance by the City (or

party on behalf of the City); the vendor, contractor or other party who is supplying the goods and /or services has otherwise complied with all of the contract's terms and conditions and is not in default of any of them; and if the contract requires any subcontractors or other parties to be bound by similar other "flown-down" requirements that those requirements have been complied with.

2.1.8. Period of Offer Validity

Prices quoted in the bid must remain open for a period of ninety (90) days from the date of bid opening.

2.1.9. Alternatives / Substitutions or Clarification to Specifications

Any alternatives or substitutions are not permitted. Two (2) Bid Alternates are included on the Bid Form and the alternate work may be included in the awarded Contract at the sole discretion of the City. This section is also used to clarify anything that pertains to this Bid Package.

2.1.10. Bid Tabulation

Bidders can download copies of the Bid Tabulation Sheet from DemandStar by Onvia at www.DemandStar.com under the documents section of the detail's menu for this bid.

2.1.11. Patents and Copyrights

The Contractor shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product or device in performance of the Work, which is the subject of patent rights or copyrights. Contractor shall, at its own expense, hold harmless and defend the City against any claim, suit or proceeding brought against the City which is based upon a claim, whether rightful or otherwise, that the Work, or any part thereof, furnished under this Agreement, constitutes and infringement of any patent or copyright of the United States. The Contractor shall pay all damages and costs awarded against the City.

2.1.12. Termination for Default

- a. The performance of work under this agreement may be terminated by the City, in whole or in part, in writing, whenever the City shall determine that the Contractor has failed to meet performance requirements of this Agreement by giving thirty (30) days written notice to the contractor.
- b. The City has a right to terminate for default if the Contractor fails to make delivery of the supplies or perform the Work, or if the Contractor fails to perform the work within the time specified in the Agreement, or if the Contractor fails to perform any other provisions of the Agreement.
- c. Failure of a Contractor to deliver or perform the required work within the time specified, or within a reasonable time as determined by the City or failure to make replacements of rejected articles or work when so requested, immediately or as directed by the City, shall constitute authority for the City to purchase in the open market articles or work of comparable grade to replace the articles or work rejected, not delivered, not completed. On all such purchases, the Contractor or his surety shall reimburse the City, within a reasonable time specified by the City, for any expense incurred in excess of the Agreement prices.

d. Such purchases shall be deducted from Agreement quantities. Should public necessity demand it, the City reserves the right to utilize services or use and/or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the City. The Contractor shall not be liable for any excess costs if acceptable evidence has been submitted to the Director of Purchasing that failure to perform the Work was due to causes beyond the control and without the fault or negligence of the Contractor.

2.1.13. Familiarity with the work

The Contractor by executing this Agreement acknowledges full understanding of the extent and character of the Work required and the conditions surrounding the performance thereof. The City will not be responsible for any alleged misunderstanding of work to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Agreement by the Contractor serves as his stated commitment to fulfill all the conditions referred to in this Agreement.

2.1.14. Cooperative Purchase

To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined in writing to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing an agency to make purchases under such contract in accordance with FS 287-042 (16) 2019.

Each Governmental agency desiring to accept this bid, and make an award thereof, shall do so independently of any other governmental agency. Each agency shall be responsible for its own purchases and each shall be liable only for materials ordered and received by it and no agency assumes any liability by virtue of this bid.

2.1.15. Evaluation of Bid Award

The City reserves the right to award the Agreement to the lowest most responsive and responsible bidder who submits the bid meeting specifications most advantageous to the City. The City further reserves the right to consider matters such as, but not limited to, quality offered delivery terms, and service reputation of the bidder in determining the most advantageous bid.

2.1.16. Agreement Alternations

No alterations or variables in the terms of the Agreement shall be valid or binding unless made in writing and signed by an authorized City official.

2.1.17. Quantities

The City reserves the right to increase or diminish any or all of the mentioned quantities of work/service or to omit any of them, as it may deem necessary. The item quantities listed in the bidding documents are given only as a guideline for preparing your bid and should not be construed as representing actual quantities to be purchased.

2.1.18. Terms

- a. The unit prices/percentages specified herein will remain firm for the period of this Agreement. Consideration of price increases at each renewal period will be given, provided such escalations are reasonable and acceptable to the City.
- b. This Agreement may be cancelled by either party with thirty (30) days written notice to the other party.
- c. All Invoices for purchases/services by the City shall be forwarded to the Accounts Payable Division, City of Cocoa, 65 Stone St., Cocoa, Florida 32922.
- d. The Contractor is to procure all permits, licenses, insurance(s), and certificates, or any such approvals of plan or specifications as may be required by federal, state and local laws, ordinances, rules, regulations, and City Purchasing Policies for the proper execution and completion of the services under this Agreement. All City of Cocoa fees will be waived.
- e. No waiver, alterations, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the Purchasing Manager or his designee.
- f. All disputes between the parties shall be resolved in accordance with the City of Cocoa Purchasing Policies.

2.1.19. Local Vendor Preference

The City of Cocoa grants preference to those vendors, contractors or service providers whose physical business address is within the boundaries of Brevard County and such location is evidenced by a local business tax receipt that has been issued for at least six (6) months prior to the date that the bid was submitted to the City. A post office box shall not be considered a physical business address.

A five percent (5%) preference is given to Brevard County vendors/contractors on bids, which do not exceed \$1,000,000.00 and do not fall into one of the categories outline in Ordinance 11-2009, which is amended by Ordinance 14-2009, and is available for review at the Office of the City Clerk or the Office of the Purchasing Manager, 65 Stone St., Cocoa FL, 32922.

2.1.20. Amend Proposal Bid

A Bidder may submit an amended proposal/bid before the deadline for receipt of proposals/bids. Such amended proposal/bid must be a complete replacement for a previously submitted proposal/bid and must be clearly identified as such in the transmittal letter which must include an authorized signature and be attached to the outside of the sealed replacement proposal/bid package.

2.1.21. Public Records

If the contractor has questions regarding the application of Chapter 119, Florida Statutes, to the contractor's duty to provide public records relating to this contract, please contact the custodian of public records at main: (321) 433-8484; cshealy@cocoaf1.org; City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

2.1.22. Local Vendor Preference Affidavit

The City of Cocoa grants preference to those vendors, contractors or service providers whose physical business address is within the physical boundaries of Brevard County and such location is evidenced by a local business tax receipt that has been issued for at least six (6) months prior to the date that the bid was submitted to the City. A post office box shall not be considered a physical business address.

A three percent (3%) preference is given to Brevard County vendors/contractors on bids, which do not exceed \$1,000,000.00 and do not fall into one of the categories outline in Ordinance 11-2009 which is amended by Ordinance 14-2009 and is available for review at the Office of the City Clerk or the Office of the Purchasing Manager, 65 Stone St., Cocoa FL, 32922.

REQUESTS FOR LOCAL PREFERENCE MUST BE ACCOMPANIED BY A TAX RECEIPT, AS DESCRIBED ABOVE, TO BE CONSIDERED.

Please be advised that the local preference requirements of the City Code do not prohibit the City from comparing the quality of materials proposed for purchase or prohibit the City from comparing qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. The City reserves the right to award contracts to the lowest and best bidder regardless of the application of any local preference.

This program applies to Brevard County, Florida vendors / contractors only.

DO NOT COMPLETE THIS FORM IF YOU DO NOT QUALIFY FOR THIS PROGRAM

Copy of local business tax receipt submitted Yes No (must be attached to receive preference)

Name of Business RUSH Marine, LLC

BY:

Anthony Landry
Signature Anthony Landry

2018 - 2019

BREVARD COUNTY BUSINESS TAX RECEIPT
SUBJECT TO COUNTY ZONING RESTRICTIONS
TAX RECEIPT SHOULD BE DISPLAYED ON PREMISES

ACCOUNT NO.
177938

THE PERSON(S), OR ENTITY BELOW:
RUSH MARINE
6285 VECTORSPACE BLVD
TITUSVILLE, FL 32780

BUSINESS PERIOD: October 01, 2018 - September 30, 2019
EXPIRES: SEPTEMBER 30, 2019

ISSUED PURSUANT AND SUBJECT TO FLORIDA STATUTES AND BREVARD COUNTY CODE ISSUANCE DOES NOT CERTIFY COMPLIANCE WITH ZONING OR OTHER LAWS. BUSINESS TAX RECEIPT IS SUBJECT TO REVOCATION FOR ZONING VIOLATIONS, AND / OR FAILURE TO MAINTAIN REGULATORY PRE-REQUISITES AS REQUIRED FOR BUSINESS CLASSIFICATION(S), OR SUBSEQUENT ACTIVITIES. NOTIFY TAX COLLECTOR UPON CLOSING OF BUSINESS. A PERMIT IS REQUIRED TO ADVERTISE (Including with signage) "GOING OUT OF BUSINESS".

LOCATION:
6285 VECTORSPACE BLVD
TITUSVILLE, FL 32780

LISA CULLEN, CFC, Brevard County Tax Collector
P O Box 2500, Titusville, Florida 32781-2500
(321) 264-6969 or (321) 633-2199

UPON A CHANGE OF OWNERSHIP OR LOCATION,
BUSINESS TAX RECEIPT SHOULD BE TRANSFERRED WITHIN 30 DAYS.

OWNED BY:
RUSH CONSTRUCTION INC

BUSINESS CLASSIFICATIONS, DISCLAIMERS, AND RELATED FEES:

EXEMPTIONS: 0.00

820005	RECEIPT AMT
590501	HAZ WASTE GEN. SURCHARGE
300305	GENERAL CONTR.[CERTIFIED]



Receipt Fee	37.00
Hazardous Waste Fee	50.00
Zoning Application Fee	0.00
Building Occupancy Review Fee	0.00
Fire Prevention Fee	0.00
Late Penalty	0.00
NSF Fee	0.00
Transfer Fee	0.00

Paid 001-18-00006146 08/21/2018 87.00

MAIN OFFICE: 400 South St., 6th Floor, Titusville, FL 32780

BRANCH OFFICES: Merritt Island Office, 1605 N. Courtenay Pkwy
Melbourne Office, 1515 Sarno Road
Palm Bay Office, 450 Cogan Dr. SE
Titusville Office, 800 Park Ave.
Indian Harbour Beach Office, 240 E. Eau Gallie Blvd.
Viera Office, 2725 Judge Fran Jamieson Way, #A108, Viera, FL 32940

2019 - 2020

BREVARD COUNTY BUSINESS TAX RECEIPT
SUBJECT TO COUNTY ZONING RESTRICTIONS
TAX RECEIPT SHOULD BE DISPLAYED ON PREMISES

ACCOUNT NO.
177937

THE PERSON(S), OR ENTITY BELOW:
RUSH MARINE LLC
6285 VECTORSPACE BLVD
TITUSVILLE, FL 32780

BUSINESS PERIOD: October 01, 2019 - September 30, 2020
EXPIRES: SEPTEMBER 30, 2020

ISSUED PURSUANT AND SUBJECT TO FLORIDA STATUTES AND BREVARD COUNTY CODE ISSUANCE DOES NOT CERTIFY COMPLIANCE WITH ZONING OR OTHER LAWS. BUSINESS TAX RECEIPT IS SUBJECT TO REVOCATION FOR ZONING VIOLATIONS, AND / OR FAILURE TO MAINTAIN REGULATORY PRE-REQUISITES AS REQUIRED FOR BUSINESS CLASSIFICATION(S), OR SUBSEQUENT ACTIVITIES. NOTIFY TAX COLLECTOR UPON CLOSING OF BUSINESS. A PERMIT IS REQUIRED TO ADVERTISE (Including with signage) "GOING OUT OF BUSINESS".

LOCATION:
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TITUSVILLE, FL 32780

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P O Box 2500, Titusville, Florida 32781-2500
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UPON A CHANGE OF OWNERSHIP OR LOCATION
BUSINESS TAX RECEIPT SHOULD BE TRANSFERRED WITHIN 30 DAYS

OWNED BY:
RUSH MARINE LLC

BUSINESS CLASSIFICATIONS, DISCLAIMERS, AND RELATED FEES:

EXEMPTIONS: 0.00

820005 RECEIPT AMT
590501 HAZ WASTE GEN. SURCHARGE
300305 GENERAL CONTR.[CERTIFIED]



Receipt Fee 37.00
Hazardous Waste Fee 50.00
Zoning Application Fee 0.00
Building Occupancy Review Fee 0.00
Fire Prevention Fee 0.00
Late Penalty 0.00
NSF Fee 0.00
Transfer Fee 0.00

Paid 001-19-00069190 07/22/2019 87.00

MAIN OFFICE: 400 South St., 6th Floor, Titusville, FL 32780

BRANCH OFFICES: Merritt Island Office, 1605 N. Courtenay Pkwy
Melbourne Office, 1515 Sarno Road
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Titusville Office, 800 Park Ave.
Indian Harbour Beach Office, 240 E. Eau Gallie Blvd.
Viera Office, 2725 Judge Fran Jamieson Way. #A108, Viera, FL 32940

3. Scrutinized Company Certification

3.1. Florida Statutes, Sections 287.135 and 215.473

This certification is required pursuant to Florida Statutes, Sections 287.135 and 215.473 As of July 1, 2018, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with a local governmental entity for goods or services of:

- a. Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- b. One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
 - I. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473; or
 - II. Is engaged in business operations in Cuba or Syria.

THIS CERTIFICATION FORM MUST BE COMPLETED AND INCLUDED IN YOUR BID RESPONSE. FAILURE TO SUBMIT THIS FORM AS INSTRUCTED SHALL RENDER YOUR BID SUBMITTAL NON-RESPONSIVE.

- a. The Vendor, owners, or principals are aware of the requirements of Section 287.135, Florida Statutes; and
- b. The Vendor, owners, or principals are eligible to participate in this solicitation and not listed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel; and
- c. For contracts of one million dollars or more, the Vendor, owners, or principals are eligible to participate in this solicitation and not listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and, further, are not engaged in business operations in Cuba or Syria; and
- d. If awarded the Contract, the Vendor, owners, or principals will immediately notify the City in writing if any of its company, owners, or principals: are placed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; engage in a boycott of Israel; or engage in business operations in Cuba or Syria.


(Authorized Signature)

(Printed Name and Title)

(Name of Vendor)

Notary Public, State of

STATE OF Florida



Anthony Landry, President

RUSH Marine, LLC

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023



This certification form must be completed and included within bid response. Failure to submit this form as instructed shall render bid submittal non-responsive.

4. Certification A: (Debarment, Suspension and other responsibility matters – Primary Covered Transactions)

The prospective primary participant certifies to the best of its knowledge and belief that its principals;

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;
- b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation of this proposal.

4.1. Instructions for Certification (A)

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below;

- a. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or any explanation shall disqualify such person from participation in this transaction.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
- c. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its

certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.
- e. The prospective primary participant
- f.
- g. agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- h. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- i. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
- j. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- k. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

5. Certification B: (Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions)

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

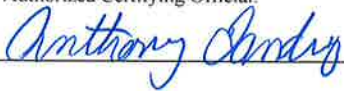
5.1. Instructions for Certification (B)

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

- a. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- b. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- c. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.
- d. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- e. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause title "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitation for lower tier covered transactions.
- f. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may but is not required to, check the Non-procurement List.
- g. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of

a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- h. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant: Anthony Landry		Date: 12/05/2019
Signature of Authorized Certifying Official: 	Title: President	

6. Bidders Certification

- a. I have carefully examined the Invitation to Bid, Instructions to Bidders, General and/or Special Conditions, Vendor' Notes, Specifications, proposed agreement and any other documents accompanying or made a part of this Invitation;
- b. I hereby propose to furnish the goods or services specified in the Invitation at the prices or rates quote in my bid. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City adequate time to evaluate all bids;
- c. I agree to abide by all condition of this bid and understand that a background investigation may be conducted by the City of Cocoa;
- d. I certify that all information contained in this bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this bid on behalf of the vendor/contractor as its act and deed and that the vendor/contractor is ready, willing and able to perform if awarded the bid;
- e. I further certify, under oath, that this bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a bid for the same product or service; no officer, employee or agent of the City of Cocoa or of any other bidder interested in said bid; and that the undersigned executed this Bidder's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

Anthony Landry

(Authorized Signature)
Anthony Landry,
President

(Printed Name and Title)

RUSH Marine, LLC

Name of Business

6285 Riverfront Center Blvd.

Business Mailing Address

Phone: 321-267-8100

Fax: 321-267-9944

Phone & Fax Number

Titusville, FL 32780

City, State, Zip

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023

Personally Known

Or

Produced Identification



7. Checklist for Sealed Bid

7.1. Preparation of Bids

- a. Bidders are expected to examine this bid form, attached drawings, specifications, if any and all instructions. Failure to do so will be at the Bidder's risk.
- b. All prices and notations must be in ink or typewritten. No erasure marks permitted. Mistakes may be crossed out and corrections inserted adjacent and must be initialed and dated in ink by person signing bid. All bids must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. Each bidder shall furnish the information required on the Original City of Cocoa's bid forms and each accompanying sheet thereof, on which he/she makes an entry.
- d. Unit price for each unit bid shall be shown. A total shall be entered in the amount column for each item bid. In case of discrepancy between a unit price and extended price, the unit prices will be presumed to be correct.
- e. Although the City generally awards bid based on a "lump sum" basis to the bidder submitting the lowest responsive and responsible total bid as shown on the Invitation to Bid cover page, the City may choose to award on a "per group" or "per item" basis. Therefore, bidders must submit with their bids, all pricing pages on the forms provided clearly indicating which items are bid and which are not. Failure to submit these pages will render such bid non-responsive.
- f. The official clock to be used for submitting any bid documents is located at the City Hall's lobby. Submittal time for this bid expires at **3:00 p.m.** on the date stated in these documents.

7.2. Bid Check List

Bidders are cautioned to please check their bid very carefully, using the following Checklist:

Insert	Description
Yes <input checked="" type="checkbox"/>	Bid envelope prepared as specified
Yes <input checked="" type="checkbox"/>	It is the bidder's responsibility to contact Onvia DemandStar (www.DemandStar.com or 1-800-711-1712) prior to submitting a bid to ascertain if any addenda have been issued, to obtain all such addenda, and incorporate that information into the bid response.
Yes <input checked="" type="checkbox"/>	Submitted in Duplicate as requested one (1) Original and (1) Copy
<input checked="" type="checkbox"/>	Section 1.0 Invitation to Bidders (Form 0019)
<input checked="" type="checkbox"/>	Section 2.1 Instructions to Bidders
<input checked="" type="checkbox"/>	Section 3.0 Scrutinized Company Certification
<input checked="" type="checkbox"/>	Section 4.0 Certification A (Debarment, suspension and other responsibility matters – Primary Covered Transactions)
<input checked="" type="checkbox"/>	Section 5.0 Certification B (Debarment, suspension, ineligibility and voluntary exclusions – Lower Tier Covered Transactions)
<input checked="" type="checkbox"/>	Section 6.0 Bidder's Certification
<input checked="" type="checkbox"/>	Section 7.0 Bid Form/Schedule of Unit Pricing
<input checked="" type="checkbox"/>	Section 8.0 Exceptions to Specifications
<input checked="" type="checkbox"/>	Section 9.0 Business References
<input checked="" type="checkbox"/>	Section 10.0 Statement of Bidders Qualifications

	Yes <input checked="" type="checkbox"/>	Section 11.0 Listing of Subcontractors
	Yes <input checked="" type="checkbox"/>	Section 12.0 Bid Bond
	Yes <input checked="" type="checkbox"/>	Section 13.0 Non-Collusion Affidavit
	Yes <input checked="" type="checkbox"/>	Section 14.0 Drug free workplace certification signed
	Yes <input checked="" type="checkbox"/>	Section 15.0 Conflict of Interest Statement
	Yes <input checked="" type="checkbox"/>	Section 16.0 Form of Agreement
	Yes <input checked="" type="checkbox"/>	Section 17.0 Corporate Principal Certificate
	Yes <input checked="" type="checkbox"/>	Section 18.0 Performance and Payment Bond
	Yes <input checked="" type="checkbox"/>	Section 19.0 Certificate of Liability
	Yes <input checked="" type="checkbox"/>	Section 27.0 No Bid Response to Invitation to Bid

Addendum 1, 2, 3, and 4 have been acknowledged.

8. Bid Acknowledgement Form

Proposal of RUSH Marine, LLC
(Name)

6285 Riverfront Center Blvd., Titusville, FL 32780
(Address)

To furnish all materials, service, equipment, and labor required, for **Cocoa Riverfront Park Promenade Improvements** as specified in the bid documents.

TO: Purchasing Manager
City of Cocoa
65 Stone St.
Cocoa, Florida 32922

Bidders:

The undersigned Bidder has carefully examined the Contract Documents and is familiar with the nature and extent of the work and materials and labor required. The undersigned agrees to do all of the work called for by said specifications, in the manner prescribed therein, in accordance with the Contract Documents, for the prices stated in the spaces herein provided.

=	TOTAL BASE BID	\$ 989,618.00
---	----------------	---------------

Nine Hundred Eighty-Nine Thousand, Six Hundred Eighteen Dollars
(Grand Total Written in words)

Bidder Agreement & Public Notary

The undersigned also agrees as follows:

The undersigned Bidder also agrees to commence the work with an adequate force and equipment within ten (10) consecutive calendar days following receipt of Notice to Proceed/Original Purchase Order. Work should be substantially complete in thirty (30) days with completion in thirty-five (35) days from notice to proceed.

Any deviation(s) in the specifications must be so indicated on form number 00311 (EXCEPTIONS TO SPECIFICATIONS/CLARIFICATIONS).

The Contractor shall procure and shall maintain the City's insurance requirement during the life of this Contract. (See Section 027 General Conditions)

The Contractor agrees to reimburse the City of Cocoa, Florida, as liquidated damages for each calendar day elapsing between the date herein specified as the day of substantial or full completion and the actual day of such completion of the contract work, the amount of nine hundred and sixty-four dollars (\$964.00) per calendar day.

Anthony Landry
(Authorized Signature)
Anthony Landry,
President

(Printed Name and Title)

RUSH Marine, LLC

Name of Business

6285 Riverfront Center Blvd.

Business Mailing Address

Phone: 321-267-8100

Fax: 321-267-9944

Phone & Fax Number

Titusville, FL 32780

City, State, Zip

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires 08/06/2023



BID FORM

Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of bids. Final payment for all Unit Price Bid items will be based on actual quantities, determined as provided to complete the project as indicated in the contract documents.

See Specification Section 01200 for additional information on each bid item.

Item Number	Item Description	Unit	Quantity	Unit Price	Total Price
1*	Mobilization/Demobilization, Insurance, Bonds*	LS	1	\$ 69,000	\$ 69,000
2	Level "A" Subsurface Utility Investigations	LS	1	\$ 20,000	\$ 20,000
3	Erosion and Sediment Control	LS	1	\$ 25,000	\$ 25,000
4	Demolition	LS	1	\$ 30,940	\$ 30,940
5	Electrical and Lighting	LS	1	\$ 200,000	\$ 200,000
6	Reinforced Concrete Wall and Piers	LS	1	\$ 300,000	\$ 300,000
7	Reinforced Concrete Overlooks	LS	1	\$ 172,000	\$ 172,000
8	Construct Utilities	LS	1	\$ 58,000	\$ 58,000
9	Landscape curb	LS	1	\$ 18,077	\$ 18,077
10	Landscaping & Irrigation	LS	1	\$ 45,762	\$ 45,762
11	Lighted Sign	LS	1	\$ 7,099	\$ 7,099
12	Survey and AutoCAD Format Record Drawings Provided by the Contractor	LS	1	\$ 16,740	\$ 16,740
13	Allowance	LS	1	\$ 27,000	\$ 27,000
Total Base Bid Amount					
14	Additive Bid Alternate 1 – Alternate Landscaping	LS	1	\$ 5,940	\$ 5,940
15	Deductive Bid Alternate 2 – Use of Precast Overlook Elements	LS	1	\$	\$

*NOTE: Bid Item Number 1 cannot be more than 7% of the Total Base Bid Price.

Addendum 1, 2, 3, and 4 have been acknowledged.

Failure to complete the above will result in the bid being declared non-responsive.

9. Exceptions, Deviations or Clarifications to Specifications

Print or in legible hand writing detailed information below:

N/A

10. Business References

Bidder shall submit as a part of the bid package, three (3) business references. The Bidder must include name of the business, address, contact person, and telephone number. This list of references must be of similar nature and size preferably governmental/Municipalities.

Reference 1

Business Name	Canaveral Port Authority
Address	445 Challenger Road, Suite 301, Cape Canaveral, FL 32920
Telephone Number	321-783-7831
Contact Person	Patrick Hammond

Reference 2

Business Name	St. Johns County Board of County Commisioners
Address	2750 Industry Center Road, St. Augustine, FL 32084
Telephone Number	904-669-0787
Contact Person	Phyllis Thorpe

Reference 3

Business Name	Health First Cape Canaveral Hospital
Address	701 W. Cocoa Beach Causeway, Cocoa Beach, FL
Telephone Number	321-868-7688 Ext: 27688
Contact Person	Steven Cornwell

Optional Reference

Business Name	Howard W. Pence, Inc.
Address	342 East Dixie Ave, P.O. Box 2005, Elizabeth Town, KY 42702
Telephone Number	270-737-8723
Contact Person	Rick Everts



April 9, 2019

RUSH Marine, LLC
6285 Riverfront Center Blvd.
Titusville, FL 32780

RE: RUSH Marine - Letter of Reference

To Whom It May Concern:

RUSH Marine, LLC. recently performed as Construction Manager on our Milliken's Reef Shoreline Repairs project. Due to RUSH Marine's attention to detail and proactive approach, the project was completed on time and under budget. RUSH Marine consistently worked for the best interest of the owner and exceeded our expectations.

The RUSH Marine team worked diligently to provide innovative solutions to a challenging shoreline erosion situation. The RUSH Marine team was able to collaborate effectively with the owner, engineer and various other stakeholders to ensure streamlined project execution. The project was successfully completed without any issues or concerns from any parties related to cost, schedule or quality of work.

We look forward to continuing to work with RUSH Marine on future projects here at Port Canaveral and I would recommend RUSH Marine to other owners/organizations as Construction Managers.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Hammond', written over a white background.

Patrick Hammond, E.I.
Project Engineer/Project Manager



St. Johns County Board of County Commissioners

Public Works | Construction Services

April 4, 2019

RE: Rush Marine LLC Recommendation

To Whom It May Concern:

It is my pleasure to submit this letter of recommendation for Rush Marine LLC. I was recently the project manager for the replacement of two floating docks at the Vilano Boat Ramp, in St. Augustine, FL. The new docks were provided and installed by Rush Marine. My primary contact for Rush Marine was Tony Landry, the company president, who was most professional and pleasant to work with throughout the project. After contract execution, we had a fairly long lead time for materials, during which Mr. Landry was proactive in keeping me updated on the schedule, demonstrating his awareness of and attention to our need to be able to keep the public apprised of anticipated impact on their use of this very popular boat ramp. He provided an aggressive on site schedule to minimize his presence at the boat ramp, but at the same time arranged his work elements so that one floating dock was always functioning and open to the public. The demolition/installation was manned with most competent and courteous personnel. The site was maintained in a safe and tidy manner at all times. Rush Marine was quick to respond to and fair in pricing of a few change orders for additional work that the County requested during their time onsite, and they still managed to complete the job in less time than proposed.

I would not hesitate to recommend Rush Marine LLC for any size or type of marine project, as I hope to have the opportunity to work with them again in the future myself. Please do not hesitate to contact me, should you have any questions or need further information.

Thank you very much.

A handwritten signature in cursive script that reads "Phyllis Thorpe".

Phyllis Thorpe
Project Manager
904-669-0787

11. Statement of Bidder's Qualifications

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The bidder may submit any additional information he desires.

- a. Name of Bidder: RUSH Marine, LLC
- b. Permanent main office address: 6285 Riverfront Center Blvd., Titusville, FL 32780
- c. When organized (Month/Year): January 2018
- d. If a corporation, where incorporate (State): N/A
- e. How many years has business been engaged in the contracting business under your present firm or doing business as (DBA): 1 year and 12 months
- f. Past Performance (List past contracts of similar value and work previously awarded) :

Contract Name	Contract No.	Customer	Value	Pop (Period of Performance)	Completion Date or On-Going
CPA Cruise Terminal 3 Marine Works	CN-18-012	Canaveral Port Authority	\$38,600,000.00	14 Months	On-going
Shoreline Stabilization of Area 1, MCSF Blount Island	N69450-18-F-0719	Howard W. Pence, Inc.	\$2,565,066.00	6 Months	May 2019
Health First Cape Canaveral Hospital Shoreline Repair	18-100	Health First, Inc.	\$485,466.00	43 days	May 2019

- g. General scope of services company provides:

Marine Construction, Marine Transportation Facilities, Beach & Shoreline Restoration, Concrete Structures, Deep Water Structures, Roads & Bridges, Bulkheads, Pile Driving Revetment & Erosion, Hard Armoring, Marinas, Sheet Piling, Commercial Diving

- h. Has business ever failed to complete any work awarded? Yes No

If yes, please specify cause and resolution:

- i. Has business ever defaulted on a contract? Yes No
If yes, please specify cause:

- j. List major equipment as it pertains to performing on this contract:
(Specify if equipment is owned, leased, subleased or third-party provided.)

- Leased equipment shall be utilized for the scope of services.
- 85 TW crane will be used for demo of pavilions and installation of new concrete pavilion overlooks.
- May utilize a barge depending on access from park.

- k. Provide an example of construction work similar in type to this project.
(Briefly describe scope of work, time-line, milestones and challenges)

All 3 project examples above include bulkhead scope similar to the Riverfront Park Promenade Improvements.

See attached

1. Background and experience of the principal stakeholders and project managers assigned to this project.

Name	Position	Role in Project	Background	Years' Experience
Anthony Landry	President	Project Coordinator	*See attached*	35 years
Dean Reed	Project Manager	Project Manager	*See attached*	16 years
Shane McCreery	Project Manager	Project Manager	*See attached*	23 years

m. Credit available: \$ 600,000

n. Give bank reference: *See attached*

o. Is business able to provide a detailed financial statement and furnish any other information that may be required by the City of Cocoa? Yes No

The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City of Cocoa in verification of the recitals comprising this Statement of Bidder's Qualifications.

Anthony Landry
(Authorized Signature)

Anthony Landry,
President

(Printed Name and Title)

RUSH Marine, LLC

Name of Business

6285 Riverfront Center Blvd.,

Business Mailing Address

Phone: 321-267-8100

Fax: 321-267-9944

Phone & Fax Number

Titusville, FL 32780

City, State, Zip

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

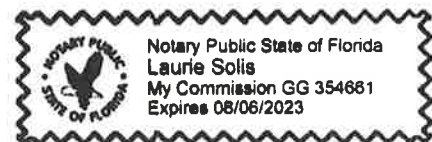
Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023

Personally Known
Or
Produced Identification



RUSH Marine Project References

Cruise Terminal 3 Marine Works Port Canaveral, FL

Prime Contractor: RUSH Marine, LLC

Organization Name: Canaveral Port Authority

Date of completion: January 2020

Contract value at completion: Still on track to finish per original Contract Value

Square feet of area over water: 174,621

Number of slips: 1,440 LF of deep-water cruise ship berthing facility

% performed by RUSH Marine: 95%

Description of project: Demolish and dispose of approximately 1,400 LF of existing concrete open pile pier including piles, existing bulkheads, and concrete dolphin structures. Replace the existing structures with deep wall structures. This scope includes furnishing and installation of the steel sheet-pipe combination wall system, steel pipe/ A-frame tie back system, mono-piles and shore mooring dolphins, sheet pile walls with grouted tie back anchors, below water grouted articulated slope protection mats, fenders, mooring fixtures, dredging, water vaults, and misc. earthwork. Dredge approximately 60,000 CY of materials to be disposed at an offshore disposal site 5 miles off of the Brevard County Coastline. Grouted tie back anchors and mechanical works will be subcontracted. The major equipment utilized to self-perform this work was leased for the duration of the project.

Contact name: Patrick Hammond

Address: 445 Challenger Road
Cape Canaveral 32920

Contact phone number: 321-783-7831

Contact e-mail address: phammond@portcanaveral.com



RUSH Marine Project References

Shoreline Stabilization of Area 1, MCSF Blount Island Jacksonville, FL

Owner Representative:

Howard W. Pence Inc.

Duration: 6 Months

Size of Project: 2,000 LF of shoreline stabilization within a highly restricted and active Port and Military facility

Contract Value: \$2,565,066.00

% performed by RUSH Marine: 95%



Work Self-Performed: RUSH Marine was awarded the Shoreline Stabilization of Area 1, MCSF Blount Island project in Jacksonville, FL.

The work included the installation of 536 LF of permanent steel sheet pile bulkhead with tiebacks, clearing and grubbing. An installation of 1,400 LF of temporary sheet piles to provide additional erosion control measures, over 1400 LF of slope excavation, and placement of geotextile fabric, bedding stone and rip rap, landscaping, fencing, and relocation of security cameras and poles.

Contact name: Rick Everts

Address: 342 East Dixie Ave Po Box 2005
Elizabethtown, KY 42702

Contact phone number: 270-737-8723

Contact e-mail address: rickeverts@hwpence.com



RUSH Marine Project References

Health First Cape Canaveral Hospital
Shoreline Repair
Cocoa Beach, FL

Owner Representative: Health First, Inc

Duration: 43 days

Size of Project: 550 LF of steel sheet piles along the existing shoreline on the West side of the property

Contract Value: \$485,466.00

% performed by RUSH Marine: 98%



Work Self-Performed: RUSH Marine, LLC was awarded the Health First Cape Canaveral Hospital Shoreline Repair project in Cocoa Beach, FL. The Install was approximately 550 LF of steel sheet piles along the existing shoreline on the West side of the property. There was a removal of 1270 LF of 2"x10" timber cap from the existing timber bulkhead and a furnish and install of 1270 LF of new 2"x 10" timber cap on the existing bulkhead. Pressure grouting of 5 locations around the facility and along the existing timber bulkhead.

Contact name: Steven Cornwell

Address: 1350 S. Hickory St.
Melbourne, FL 32901

Contact phone number: 321-868-7688 Ext. 27688

Contact e-mail address: steven.cornwell@hf.com



Anthony “Tony” Landry

President of RUSH Marine, LLC



With over 31 years of construction experience in heavy civil, marine and transportation markets, Tony serves as President of the Marine Division for RUSH. He is responsible for leading the business development and marketing efforts as well as all aspects of project management, field operations, safety, and quality control.

Tony has the ability to take a project from Design/Estimating, through all construction phases and to its final completion. His decades of experience allows him to be responsible for the coordination of all aspects of construction. He has extensive knowledge of construction and understands the relationship-based environment that exists related to marine, heavy civil and transportation markets which makes him an asset for any large or small project. Tony also works closely with Engineers, Owners, staff and subcontractors in scheduling, construction, safety, quality control, cost control and close-out.

Prior to joining RUSH Construction, Tony served as Project Manager, Senior Project Manager and for the last 10 years, Operations Manager covering the eastern seaboard for Orion Marine Construction, formally known as Misener Marine Construction. Projects included design build and design bid build projects such as deep wall berthing structures, Open Pile Piers, Bulkheads, Road and Bridges, and Marinas totaling over \$500 million.

Tony is a native of Louisiana and moved to Florida in 1999 and has been a resident of Flagler County for 18 years. He is married to his wife of 29 years and has two daughters.

DEAN REED, PROJECT MANAGER

6285 Riverfront Center Boulevard, Titusville, FL 32870 | 407-325-9637 | dreed@rushinc.com



PREVIOUS WORK CLASS EXPERIENCE, SKILLS & ABILITIES

Bridge Painting	Curbs
Cathodic Protection	Drill Shaft
Debris Removal	Driveways
Drainage	Driving Steel Sheet Pile
Electrical Work	Foundation Drilling
Fencing	Grout Injection
Flexible Paving	Gunite
Grading	Gutters
Grassing / Seeding & Sodding	Handrails
Guardrail	Lift Station
Intelligent Transportation Systems	Milling
Intermediate Bridges	Pavement Diamond Grinding
Landscaping	Pile Driving
Major Bridge – Bridges of Conv. Constr. Over water Opening of 1000 Ft+	Pile Jackets
Major Bridge – Concrete Segmental Construction	Pressure Grout
Minor Bridges	Rehabilitation of Slope Pavement
Pavement Marking	Reinforced Earth Walls
R & R Major Bridge – Bridges of Conventional Construction Which are Over Water Opening of 1,000 Ft+	Retaining Wall
R & R Major Bridge – Concrete Segmental Construction	Rip Rap
R & R Minor Bridges	Rubble Rip Rap
Roadway Signing	Shotcrete
Sidewalk	Spall Repairs
Traffic Signal	Traffic Separators
Concrete Rehabilitation (Spall Repair)	Tree Removal
Concrete Surface Sealer and Water Proofing	Underground Utilities (Water & Sewer)
Concrete Traffic Separator	Underground Utilities (Electric)
	Underground Utilities (Gas)
	Utility Work

PROJECT ROLE

Project Manager

Highly dedicated project manager with extensive experience in successfully directing large scale, challenging projects. Equipped with powerful communication, coordinating and leadership skills. Adept at tracking and monitoring project schedules and budgets, updating and reviewing financial status reports and ensuring deliverable deadlines are met. Excellent personal motivation with a proven ability to build and work collaboratively in a strong team environment.

CERTIFICATIONS / TECHNICAL SKILLS

Certified Florida Storm Water Inspector Advanced Maintenance
Traffic Certification (ATSSA) FDOT Quality Control Manager
FDOT Earthwork Construction Inspector Level 2
ACI Concrete Field Testing Technician Grade 1 USACE Quality Control Manager Certification
Florida Notary Public
Strong Computer Skills in AutoCad, P6, Microsoft Project, Microsoft Office, Spitfire, Vista
Excellent Verbal and Written Communication Skills
Extensive Experience in Planning, Budgeting, Cost Control, Contract Negotiation, and Scheduling

PROJECT CURRENTLY ASSIGNED TO

Carnival Cruise Ship Terminal 3 Marine Works, Port Canaveral, FL, Value: ~38,600,000

EDUCATION

University of Florida – BS, Building Construction

CONSTRUCTION INDUSTRY EXPERTISE

Heavy Marine Construction
Heavy Highway Construction
Earthwork
Infrastructure Improvement Projects
Bridge Rehabilitation Projects
Strategic Vision & Project Planning
Safety
Cost Accounting & Reporting
Bidding, Estimating & Proposals
Government Sector

NUMBER OF YEARS EXPERIENCE IN CONSTRUCTION

16 Years

EXPERIENCE IN CONSTRUCTION

RUSH Marine LLC

Carnival Cruise Ship Terminal 3 Marine Works – Port Canaveral, FL
Position: Project Manager

Southland Holdings

Tom Staed Veteran's Memorial Spandrel Bridge – Daytona Beach, FL
Position: Senior Project Engineer

Misener Marine Construction, Inc., Orion Marine Group

Nuclear Power Training Facility-Navy Submarine Pier – Charleston, SC
Position: Project Manager

Canaveral Locks Guidewall Fender System-USACE – Port Canaveral, FL
Position: Project Manager

SR 520 Indian River Cathodic Protection Bridge Repair – Melbourne, FL
Position: Project Manager

SR 404 Pineda Causeway Cathodic Protection Bridge Repair – Melbourne, FL
Position: Project Manager

Royal Caribbean Cruise Ship Terminal 1 – Port Canaveral, FL
Position: Project Manager

Carnival Cruise Ship Terminal 6 – Port Canaveral, FL
Position: Project Manager

Johnson Bros Corporation, National Civil Contractor

Caminada Bay Bridge – Grand Isle, LA
Position: Project Manager

EXPERIENCE IN CONSTRUCTION (cont.)

Midway Regional Storm Water Facility/SR415 Surcharge – Sanford, FL
Position: Project Manager

Baldwin Park City Project – Orlando, FL
Position: Project Manager

John Land Apopka Expressway Project (SR 414)
Position: Project Manager

Orlando Expressway Authority – Apopka, FL
Position: Project Manager

Orange County Utility Relocation – Orlando, FL
Position: Project Manager

Units 8, 9, 9A, 10 & 436 Connector Road at Baldwin Park – Orlando, FL
Position: Project Manager

Saratoga Springs Resort Infrastructure – Walt Disney World – Orlando, FL
Position: Project Manager



SHANE McCREERY, PROJECT MANAGER

6285 Riverfront Center Boulevard, Titusville, FL 32780 | (727) 518-5121 | smcreery@rushinc.com

PREVIOUS WORK CLASS EXPERIENCE, SKILLS & ABILITIES

Cathodic Protection

Fencing

Flexible Paving

Grading

Grassing, Seeding and Sodding

Hot Plant-Mixed Bitum. Courses

Truss Construction

Minor Bridges

Pavement Marking

Roadway Signing

Sidewalk

Concrete Rehabilitation (Spall Repair)

Curbs

Driving Steel Sheet Pile

Fender Systems

Fiber Optic Cable Installation, Splicing & Testing

Gunite

Milling

Pile Driving

Pile Jackets

Retaining Wall

Rip Rap

Rubble Rip Rap

Shotcrete

Spall Repairs

Tiedback Walls

PROJECT ROLE

Project Manager

Responsible for leading project team through the successful initiation, planning, design, execution, monitoring, controlling and closure of projects. Accomplishing project goals through leadership, risk management, conflict resolution, cost management and working with vendors & subcontractors. Working closely with all team members, clients, architects and engineers to complete projects on time and avoid issues.

QUALIFICATIONS

Shane has a progressive track record of contribution and support for a variety of marine projects. He has served as Project Engineer, Project Manager, and Quality Control Manager on projects including Bridge Replacements, Seawall Replacements, Environmental Mitigation, Fender System Replacements, Wharf Pile Replacements, and Navigation Marker Replacements. With over 22 years of extensive experience, he is well-versed in all engineering principles, marine applications and has a strong background in QA/QC management

PROJECTS PREVIOUSLY ASSIGNED TO

1.) Health First CCH – Shoreline Stabilization. Cape Canaveral, FL - \$485K

Project Manager for a project to install 600 LF of steel sheet pile shore protection, the restoration of 1270 LF of timber cap restoration, and urethane grout injection.

2.) NAVFAC Shoreline Stabilization – Area 1, MCSF Blount Island, Jacksonville, FL – \$2.5M

Project Manager for a NAVFAC Project to excavated and install 1516 LF of Riprap and 550 LF of steel sheet pile shore protection.

EDUCATION / CERTIFICATIONS

Construction Quality Management for Contractors

Texas A&M University, B. S. Marine Engineering Technology

NUMBER OF YEARS EXPERIENCE IN CONSTRUCTION

23 Years

WORK EXPERIENCE

RUSH Marine, LLC 2018-present

NAVFAC Shoreline Stabilization – Area 1, MCSF Blount Island, Jacksonville, FL (10/2018 – Present) – \$2.6M

Project Manager for a NAVFAC Project to excavated and install 1516 LF of Riprap and 550 LF of steel sheet pile shore protection.

Orion Marine Construction, Inc. 2002-2018

NAVFAC Wharf Bravo Recapitalization, NS Mayport FL (02/2017 – Present) - \$27M

Quality Control Manger for a US Navy Project to construct 2000 LF of bulkhead, demolish & replace existing utility igloos and related utilities/sitework. Bulkhead consists of sheetpile, anchors and concrete encapsulation cap.

NAVFAC Nuclear Power Training Facility Pier Removal/Replacement Charleston, SC (04/2015 – 2/2017) - \$12.6M

Project Manager for the demolition and replacement of pier, dredging and installation of new survival Mooring Systems.

FDOT SR 312 EB at Matanzas River Bridge (09/2013 – 04/2015) - \$2.4M

Project Manager for repairs on SR 312 Bridge 780089 including the installation of a new titanium mesh impressed current cathodic protection system on 12 bridge piers, and the replacement of the existing impressed current system on the submerged steel piling. Installation required extensive repairs to steel reinforcement, continuity and concrete spalls/delaminations.

NAVFAC Naval Station - Wharf Charlie Improvements, Mayport, FL (2011-2013) - \$25.8M

Contractor Quality Control Manager for a US Navy Design/Build Project to construct approximately 800 LF of new steel sheet pile/king pile bulkhead seaward of existing. Also includes the removal and replacement of existing paving, fender system, utilities services which include high-mast lighting fixtures, new concrete utility igloos, piping, wiring (electric, potable water, sanitary, oily waste, fuel and steam) along with a new sacrificial anode cathodic protection system for the steel sheet piles and underground utility piping. In addition, project includes approximately 64' wide by 600' long second deck structure consisting of concrete slabs, beams and columns over deep pile foundations.

US Navy - Mayport Wharf Alpha Improvements, Jacksonville, FL (04/2009 – 12/2011) - \$12M

Contractor Quality Control Manager for a US Navy Design/Build Project to construct 900 LF of bulkhead, demolish existing electrical building, build new electrical building and related utilities/sitework. Bulkhead consists of sheetpile, anchors and concrete encapsulation cap.

USACOE - 79th Street Ocean Outfall, Virginia Beach, VA (2007-2009) - \$10.1M

Contractor Quality Control Manager for the installation of approximately 2300 LF of 48" CCP pipe for the Army Corps of Engineers. Project included three the installation of a 300 Ton precast outfall box approximately 1800 LF offshore. Specific responsibilities included the implementation of a three phase quality control program and project layout.

SCS Hotels, Inc. - Vinoy Marina Rehabilitation, St. Petersburg, FL (2007) - \$4.5M

Project Engineer & Quality Control Manager for the removal of existing floating piers, and installation of new concrete fixed piers. Project included dredging and the monitoring of adjacent seawalls for potential damage due to construction.

WORK EXPERIENCE- (Cont.)

Tampa Port Authority - Berth 3 Improvements, Tampa, FL (2006) - \$2.3M

Project Engineer & Quality Control Manager for the construction of 240 LF of AZ 46 steel sheet pile bulkhead with concrete fascia. Project required the use of drilled rock anchors to facilitate the installation of tie-backs without disturbing the foundation of existing tank batteries.

Kinder Morgan Tampaplex - Export Dock Extension & Modification, Tampa, FL (2005-2006) - \$5.7M

Project Engineer & Quality Control Manager for the construction of a 245 LF extension of the DAP loading Dock. Construction consisted of the installation of 245 LF crane rails over water, 6 monopile breasting dolphins and 493 LF of steel sheet pile bulkhead.

Kinder Morgan Tampaplex - Yara Dock Modifications, Tampa, FL (2005) - \$390K

Project Engineer & Quality Control Manager for the construction of a monopile breasting dolphin.

Kinder Morgan Tampaplex - Ammonia Dock & Seawall Extension, Tampa, FL (2005-2006) - \$2.4M

Project Engineer & Quality Control Manager for the construction of an ammonia dock, 18 pile breasting dolphins and 250 LF steel sheet pile bulkhead.

Tampa Port Authority - Berth 213 Improvements, Tampa, FL (2004-2005) - \$8.9M

Project Engineer & Quality Control Manager for the construction of the Tampa Port Authority's Berth 213 project consisting of the construction of approx. 1300 LF container berth.

USACOE - Offshore and Inshore Bird Islands, Jasper County, SC (2003 – 2004) - \$8.8M

Contractor Quality Control for the installation of a 4 acre offshore bird island and two 2 acre inshore bird islands for the Savannah District Army Core of Engineers. The project involved slurry transport of sand to fill 30' circumference geo-tubes which were later used to contain the island sand. It was the first time geo-tubes were used in a 9 foot tidal zone.

City of St. Petersburg - 79th Street South Bridge Replacement, St. Petersburg, FL (2003) - \$1.2M

Project Engineer and Quality Control Manager for demolition and reconstruction of 90 foot Bridge for the City of St. Petersburg. Including the installation of 36" drill shafts, and the pouring of concrete deck and hand rail.

City of St. Petersburg - Coffee Pot Bayou and Vinoy/Straub Seawall Replacement, St. Petersburg, FL (2002) – \$5.3M

Project Engineer and Quality Control Manager for the replacement of approximately 4600 wall feet of concrete encased steel sheet pile wall, 3500 wall feet of concrete sheet pile wall for the City. Upland restoration including improvements to storm water outfalls.

TXDOT Copano Bay Causeway Fender System, Rockport, TX (2001) – \$974K

Project Manager and Quality Control Manager for the replacement of the fender system at the Copano Bay Causeway for Texas DOT Project included the removal and installation of 3, 5, 7 & 14 pile timber dolphins with HDPE Pipe Sleeves along with approximately 1332 LF of timber fendering. Repairs to the foundation of the causeway consisted of the installation of approximately 900 LF of concrete filled fiberglass pile jackets.

TXDOT Matagorda Swing Bridge Fender System, Matagorda, TX (2001) – \$650K

Project Manager and Quality Control Manager for the replacement of the fender system on the Matagorda Swing Bridge for Texas DOT. Project included the removal and installation of 3, 5, 7, 19 & 31 pile timber dolphins along with the associated timber fendering.

WORK EXPERIENCE- (Cont.)

Port of Brownsville Berth 12, 13 & 14 Fender Replacement, Brownsville, TX (2000 - 2001) - \$621K

Project Manager and Quality Control Manager for the replacement of timber fender with approximately 130 Each 1 meter x 0.5 meter V-Buckle Type Fenders for the Port of Brownville.

King Fabrication L.L.C. 1997-2000

EMR Facility in Ingleside, TX

Part time Quality Control Technician responsible for the inspection/testing of aluminum and stainless steel fabrications.

Various Dock Project for the Port of Houston

Part time Quality Control Technician responsible for the inspection/testing of carbon steel fabrication.

BMAC Construction Inc. 1991-1997

Various Oilfield Construction Projects

Responsible for project layout and quality control including the following: Project layout of piping header system for various sub systems of gas processing facilities such as cooling towers, gas loading terminals, water flood stations, etc; Construction drawings such as isometric drawing for pipe fabrication. Included quality control of fabrication and welding; Project layout for concrete foundations for pipe line compressor stations and gas loading terminals. Also included the quality control of both form construction and concrete.



RUSH Marine, LLC.

A wholly-owned subsidiary of RUSH Construction, Inc.
FEIN: 59-2401736; Florida Corporation – Est.1984

CREDIT INFORMATION

RUSH Marine FEIN 82-4091915

BANKING INFORMATION BB&T Bank
2460 S. Washington Ave.
Titusville, FL 32780
Ph: (321) 268-1750
Fx: (321) 264-7113
Amy Lyng
Alyng@BBandT.com
RUSH Marine Acct. #...17694

D & B NUMBER 11-684-1595

TRADE REFERENCES

Mobro Marine
P.O. Box 986
Green Cove Spr., FL 32043
Steve Cumella
(904) 284-9670 Ph
(904) 358-8706 Fax

Metals USA
P.O. Box 532533
Atlanta, GA 30353-2533
Bryan Johns
(251) 456-4531 Ph
(904) 766-0063 Fax

JD Fields & Company, Inc.
P.O. Box 134401
Houston, TX 77219-4401
Walter Van Zuthem
walter@jdfields.com
(281) 558-7199 Ph
(281) 870-9918 Fax

Brevard Rigging Supply
P.O. Box 236545
Cocoa, FL 32923
Missy Possinger
(321) 631-2838 Ph
(321) 631-6465 Fax

Geoquip, Inc.
1111 Cavalier Blvd.
Chesapeake, VA 23323
Pam Patterson
(757) 485-2500 Ph
(757) 485-5631 Fax

11.1. Listing of Subcontractors

The Bidder proposes that the following subcontractors are qualified to performed the referenced work and have successfully done so on recent projects similar in nature and size. Upon approval of subcontractors listed the successful bidder shall not substitute subcontractors without approval from the Engineer.

Business name, address, phone, primary and alternate point of contact, email	References
Name: WLS Utilities, Inc.	1. Cruise Terminal 3 Canaveral Port Authority
Address: 5175 N. Highway 1	2. City of Cocoa
City: Cocoa	
State: Florida zip: 32927	
Phone: 321-403-4001 Primary POC: Tom Sandige Alternate POC: N/A Email: tom@wlsutilities.com	3.
Business name, address, phone, primary and alternate point of contact, email	References
Name: Extreme Plastering & Stucco, Inc.	1. Cape Canaveral City Hall
Address: 630 Eyster Blvd.	2. Adelaide Guard House, Melbourne, FL
City: Rockledge	
State: Florida zip: 32955	3. Trasona Cove, Melbourne, FL
Phone: 321-433-9950 Primary POC: Joe Lento Alternate POC: Sheila McAleney Email: joe@extremestucc.com	
Business name, address, phone, primary and alternate point of contact, email	References
Name: SA Sign Access Incorporated	1. Northrop Grumman at the Melbourne Airport
Address: 7205 Waelti Drive	2. Parrish Healthcare at Port Canaveral
City: Melbourne	
State: Florida zip: 32940	3. Cocoa Beach Fire Station #51
Phone: 321-752-9040 Primary POC: Debra Moyer Alternate POC: Joe Couturier Email: debra@signaccess.com	
Business name, address, phone, primary and alternate point of contact, email	References
Name: L.S.P. Landscaping, Inc.	1. Rockledge Fire Station #36
Address: 521 Thor Ave.	2.
City: Palm Bay	
State: Florida zip: 32909	3.
Phone: 321-724-6176 Primary POC: Jason Cally Alternate POC: Troy Owen Email: jason@lsplandscaping.com	

12. Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, RUSH Marine, LLC
 Full name and address or legal title of contractor
6285 Riverfront Center Blvd., Titusville, FL 32780 as Principal, and Berkley Insurance Company
 Full name and address or legal title of Surety 475 Steamboat Rd, Greenwich, CT 06830 of the
 City of Greenwich
 State of Connecticut, a corporation existing under the laws of the State of Delaware, as Surety, are held and firmly
 bound unto the CITY OF COCOA hereinafter called the Obligee, in the sum of
Five percent of amount bid Dollars (\$ 5%-----)
 Lawful money of the United States of America, for the payment of which sum well and truly to be made, we
 bind ourselves our heirs, executors, administrators and successors, jointly and severally, firmly by these
 presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the
 accompanying Proposal or **Bid No. B-20-08-COC**, for the performance of:

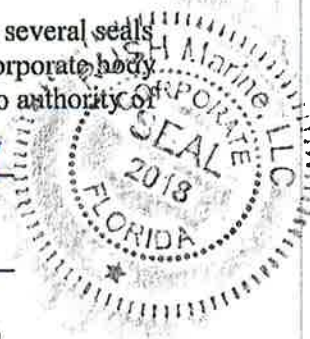
The Riverfront Promenade Overlook

NOW, THEREFORE, if the Principal shall not withdraw said Bid within city ninety (90) days after the opening
 of the same and in the event of the acceptance of his proposal by the Owner, shall within the period specified
 therefore, enter into a written contract with the Owner in accordance with the Bid as accepted, and give bond
 with good and sufficient surety or sureties, as may be required, for the faithful performance and proper
 fulfillment of such contract, or in the event of the withdrawal of said Bid within the period specified, of the
 failure to enter into such contract and give bonds within the time specified, if the Principal shall pay the Owner
 the difference between the amount specified in said Bid and the amount for which the Owner may procure the
 required work, if the latter amount be in excess of the former, then the above obligation shall be void and of no
 effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their several seals
 this 5th day of December 2019, the name and corporate seal of each corporate body
 being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of
 its governing body.

(Principal) Molly Beasley (Seal) } RUSH Marine, LLC Anthony Landry
Anthony Landry } Anthony Landry
 (Witness) Molly Beasley } President
 (Title)
6285 Riverfront Center Blvd., Titusville, FL 32790
 (Address)

Cindy L. Mirisola (Seal) } Berkley Insurance Company
Cindy L. Mirisola } Cindy L. Mirisola
 (Witness) } Attorney-in-Fact
1021 Douglas Ave., Altamonte Springs, FL 32714
 (Address) INQUIRIES: (407)389-3588



POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Cindy L. Mirisola; Benjamin Craig Sibley; Robert H. Bond; or Heather Bradley of Sihle Insurance Group, Inc. of Altamonte Springs, FL* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 24th day of July, 2018.

Attest:

Berkley Insurance Company

(Seal)

By

Ira S. Lederman
Executive Vice President & Secretary

By

Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 24th day of July, 2018, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

Maria C. Rundbaken
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 5th day of December, 2019

(Seal)



Vincent P. Forte
Vincent P. Forte

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.

13. Non-Collusion Affidavit of Bidder

State of Florida

County of Brevard, being first duly sworn, deposes and says that:

He / She is President of RUSH Marine, LLC, the Bidder that has submitted the attached Bid;

He / She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Such Bid is genuine and is not a collusive or sham Bid;

Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Cocoa or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owner's employees, or parties in interest, including this affiant.

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced Laurie Solis as identification.

Personally Known
Or
Produced Identification

Laurie Solis
Notary Public
Print Name: Laurie Solis
My Commission expires: 08/06/2023



14. Drug Free Workplace Certification

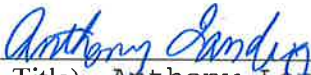
In accordance with Florida Statutes 287.087, preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedure for processing the bids will be followed if none of the tied vendors have a drug-free work place program. In order to have a drug-free workplace program, a business shall:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, Dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- b. Inform employees about the danger of drug abuse in the workplace, the business's policy maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- c. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- d. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- e. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- f. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

RUSH Marine, LLC

(Company)



(Signature & Title) Anthony Landry, President

15. Conflict of Interest Statement

Before me, the undersigned authority, personally appeared, who was duly sworn, deposes, and states:

I am the President of RUSH Marine, LLC with a local office in Titusville, Florida and principal office in Titusville, Florida.
City and State City and State

The above-named entity is submitting a Bid for the City of Cocoa described as:

City of Cocoa

Cocoa Riverfront Park Promenade Improvements

The Affiant has made diligent inquiry and provides the information contained in this Affidavit based upon his own knowledge and thereof the following;

- a. The Affiant states that only one submittal for the above bid is being submitted and that the above-named entity has no financial interest in other entities submitting bids for the same project.
- b. Neither the Affiant nor the above-named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraints of free competitive pricing in connection with the entity's submittal for the above bid. This statement restricts the discussion of pricing data until the completion of negotiations if necessary and execution of the Contract for this project.
- c. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise ineligible from participation in contract letting by any local, State, or Federal Agency.
- d. Neither the entity, nor its affiliates, nor anyone associated with them have any potential conflict of interest due to any other clients, contracts, or property interests for this project.
- e. I certify that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the City of Cocoa.
- f. I certify that no member of the entity's ownership or management, or staff has a vested interest in any aspect of the City of Cocoa.
- g. In the event that a conflict of interest is identified in the provision of services, I, on behalf of the above-named entity, will immediately notify the City of Cocoa.

Anthony Landry
(Authorized Signature)
Anthony Landry,
President

(Printed Name and Title)

RUSH Marine, LLC

Name of Business

6285 Riverfront Center Blvd., Titusville, FL 32780

Business Mailing Address

Phone: 321-267-8100

Fax: 321-267-9944

Phone & Fax Number

City, State, Zip

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023



16. Form of Agreement

This Agreement made and entered into on the TBD day of TBD, 20 by and between Anthony Landry of RUSH Marine, LLC, authorized and duly licensed to do business in the State of Florida, hereinafter called the Contractor, with an address of 6285 Riverfront Center Blvd. Titusville, FL 32780, and the City of Cocoa, a municipal corporation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the City, with an address of 65 Stone Street, Cocoa, Florida 32922.

Witnessed that the Contractor and the City, for the Consideration herein-after named, agree as follows:

16.1. Scope of Work – Article I

The Contractor shall furnish all labor, supervision, equipment, materials and perform all work described in the Bidding/Contract Documents and Drawings, and shall do everything required by this agreement and the contract documents. A detailed Project Schedule is provided in Appendix A and Technical Specifications Package is provided in Appendix B as the base point of reference for this project requirement.

16.2. Commencement and Completion of Work - Article II

The Contractor will be required to commence work under this contract within 10 calendar days after the date of receipt by him of Notice to Proceed or Purchase Order, and substantially complete the work within 135 days and totally complete all work in its entirety within 155 days of Notice to Proceed or Purchase Order.

The City anticipates issuing the Notice to Proceed by January 6, 2020. The work must be substantially complete by June 1, 2020 and totally complete in its entirety by June 20, 2020. The City holds a major event in the park on July 4th weekend and all work shall be complete and the area cleaned to allow preparation for that event.

The Contractor agrees to reimburse the City of Cocoa, Florida, as liquidated damages for each calendar day elapsing between the date herein specified as the day of substantial or full completion and the actual day of such completion of the contract work, the amount of one thousand dollars (\$1,000.00) per calendar day. All provisions regarding Contract Time are essential to the performance of this Contract. The parties acknowledge that the Contract Time provided in this Section includes consideration of adverse weather conditions common to Central Florida including the possibility of hurricanes and tropical storms.

16.3. The Contract Sum - Article III

The City will pay the Contractor for performance of the contract, subject to additions and deductions provided therein, in current funds as follows:

Nine Hundred Eighty-nine Thousand, Six Hundred Eighteen Dollars	\$ 989,618
(Written in Words)	(In Figures)

Contractor agrees to accept the Contract Price as full compensation for performing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents.

The Contractor acknowledges that Contractor studied, considered, and included in Contractor 's Total Bid all costs of any nature relating to: (1) performance of the Work under Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions; (4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

The Contractor acknowledges that performance of the Work will involve significant Work adjacent to, above, and in close proximity to Underground Facilities including utilities which will require the support of active utilities, as well as, the scheduling and sequencing of utility installations, and relocations (temporary and permanent) by Contractor.

(1) In addition to the acknowledgments previously made, the Contractor acknowledges that the Contractor 's Total Bid (original Contract Price) specifically considered and relied upon Contractor 's own study of Underground Facilities, utilities in their present, relocated (temporary and permanent) and proposed locations, and conflicts relating to utilities and Underground Facilities.

(2) The Contractor acknowledges that Contractor 's Total Bid (original Contract Price) considered and included all of Contractor 's costs relating to Contractor 's responsibilities to coordinate and sequence the Work of the Contractor with the work of the City, if any, with its own forces, the work of other contractors, if any, and the work of others at the Project site.

Payments will be made to the Contractor for actual quantities installed on the basis of the Schedule of Unit Prices included as a part of the Bid, which shall be as fully a part of the Contract as if attached or repeated herein. Where the Contract Documents provide for Unit Price Work, the Contract Price stated in the Agreement will include for all Unit Price Work an amount equal to the sum of the Unit Prices for each item of Unit Price Work times the estimated quantity of each item as indicated in the Contract Documents. Each Unit Price will be deemed to include an amount considered by Contractor to be adequate to cover all costs, including supplemental and administrative costs, and profit.

16.4. Progress Payments – Article VI

Partial payments calculated from materials stored on the job site and completed work in place and acceptable to the City at the unit bid prices will be made in accordance with the Florida Prompt Pay Act, Chapter 218, Part VII, Florida Statutes. The Contractor shall, after the first of each month, submit invoice for materials used and work performed for the previous month. The owner will certify all invoices before presenting them for payment. A form of pay estimate, stating that the bill is fair and equitable and in exact accord with contract prices will be utilized for pay purposes. Ten percent (10%) of the amount due and payable to the Contractor will be retained from each month's partial payment.

The remaining retainage amount withheld shall be released with the Final Payment after the issuance of the Final Completion Certificate. City shall make final payment to Contractor within thirty (30) days after the work is fully and properly completed, if the contract has been fully and timely performed, but subject to the condition that final payment shall not be due until Contractor has delivered to City a complete release of liens arising out the contract, or receipt releases of lien fully covering all labor, materials and equipment for which a lien could be filed as provided in Article VIII below.

Also, the contractor shall: (1) provide satisfactory evidence that it has acquired title to the materials that it has been paid for and that the material will be used to perform this contract, and (2) provide a Consent of Surety for the progress payments.

Progress payments may be withheld if:

- a. Work is found defective and not remedied;
- b. Contractor does not make prompt and proper payments to subcontractors;
- c. Contractor does not make prompts and proper payments for labor, materials, or equipment furnished him;
- d. Another contractor is damaged by an act for which Contractor is responsible;
- e. Claims or liens are filed on the job; or
- f. In the opinion of the City that Contractor's work is not progressing satisfactorily.

Further, City may withhold additional retainage in anticipation of liquidated damages equal to the product of the number of Days after the scheduled Contract Time (Substantial Completion or Final Completion) and the amount of liquidated damages set forth in this Contract if Contractor is behind schedule and it is anticipated by City that the Work will not be completed within the Contract Time. The additional retainage, under this subsection, may at the City's discretion be withheld from subsequent Progress Payments. Any additional retainage held under this subsection shall be released to Contractor in the next Progress Payment following the City's approval of a supplemental Progress Schedule demonstrating that the requisite progress will be regained and maintained as required by the General Conditions.

By making payments City does not waive claims including but not limited to those relating to:

- a. Faulty work appearing after substantial completion has been granted;
- b. Work that does not comply with the Contract Documents;
- c. Outstanding claims of liens; or
- d. Failure of Contractor to comply with any special guarantees required by the Contract Documents.

16.5. The Contract Documents – Article V

The Notice to Contractors, Instructions to Bidders, General Conditions, Special Conditions, Specifications, Proposal, Agreement, Performance/Payment Bond, and Drawings form the contract and they are as fully as part of this contract as if the same were hereto attached or herein repeated. In case of any inconsistency in

any of the documents bearing on the Agreement between the City and the Contractor, the inconsistency shall be resolved by giving precedence in the following order:

- a. Agreement Exhibits and Addenda
- b. Change Orders
- c. Supplemental Terms and Conditions
- d. General Terms and Conditions
- e. Engineering Plans and Drawings
- f. Contractor's Bid Submittal
- g. [OTHER]

At its discretion, during the course of the work, should any errors, ambiguities, or discrepancies be found in the Contract Documents, the City at its sole discretion will interpret the intent of the Contract Documents and the Contractor hereby agrees to abide by the City's interpretation and agrees to carry out the work in accordance with the decision of the City.

16.6. Liability Insurance – Article VI

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT LESS THAN \$15,000:

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is LESS than \$15,000, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence and with a deductible amount not greater than \$1,000. It is further required that the City of Cocoa, be named as an additional insured to the contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

COMMERCIAL GENERAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR CONTRACTS VALUED AT \$15,000 OR MORE:

It is required that individuals and firms contracting with the City of Cocoa, where the total contract or job value is \$15,000 or MORE, maintain Commercial General Liability insurance with a minimum per occurrence limit of not less than \$2,000,000 as the combined single limit for each occurrence and with a deductible not greater than \$5,000 or as otherwise approved in writing by the City Manager. It is further required that the City of Cocoa and FDOT, be named as an additional insured to the Contractor's CGL policy, and that proof of same in the form of a certificate of insurance be submitted before work is begun.

AUTOMOBILE LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL CONTRACTS:

The Contractor shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$1,000,000 property damage as the combined single limit for each occurrence to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by the Contractor.

PROFESSIONAL LIABILITY INSURANCE MINIMUM REQUIREMENTS FOR ALL PROFESSIONALS AS DEFINED BY FLORIDA STATUTE:

Professionals and professional corporations, associations, and firms who contract with the City of Cocoa to provide professional services are required to maintain Professional Liability Insurance and submit proof of same in the form of a certificate of insurance before work is begun.

ENVIRONMENTAL IMPAIRMENT INSURANCE MINIMUM REQUIREMENTS:

Individuals or firms who contract with the City of Cocoa to provide excavation or construction type services and who will be locating portable fuel or lubricant storage tanks at the job site or who will be storing or using hazardous chemicals on the job site are required to maintain Environmental Impairment Insurance of "Pollution Insurance" with a limit of not less than \$1,000,000 per occurrence and submit proof of same in the form of a certificate of insurance or an endorsement to their General Liability policy showing a pollution exclusion exception for each specific work product or storage container before work is begun. Contracts with such firms shall include a provision that they work in compliance with the OSHA Hazardous Communication Standard and Florida Department of Environmental Protection guidelines and supply all information about hazardous chemical being brought onto City property as required by the City's Safety and Loss Control Program.

WORKERS' COMPENSATION INSURANCE MINIMUM REQUIREMENTS:

It is required that firms employing four or more people who contract with the City of Cocoa maintain Workers' Compensation Insurance at the statutory limits and employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

It is required that firms employing less than four people who contract with the City of Cocoa comply with the exemption and notice provisions of F.S. 440 and maintain employer liability insurance and submit proof of same in the form of a certificate of insurance before work is begun.

However, if you are a corporate officer of a corporation that is actively engaged in the construction industry, or a sole proprietor or partner who is actively engaged in the construction industry, then your exemption will not apply to any work performed at a commercial building project valued at \$250,000 or greater and you must secure workers' compensation coverage in accordance with F.S. 440.38 and these general conditions and submit proof of same in the form of a certificate of insurance before work is begun.

COMPREHENSIVE BUILDER RISK INSURANCE

The Contractor shall maintain comprehensive builder risk insurance, which shall cover Contractor's labor, and any materials and equipment to be used for completion of the Work performed under this Agreement, against all risks of direct physical loss, excluding earthquake and flood, for a minimum amount of \$2,000,000. Contractor shall maintain the builder risk insurance required by this subsection until the date a certificate of occupancy is issued issuance of a certificate of occupancy for the Work.

DURATION OF CONTRACTS-NAMED INSUREDS-LIABILITY INSURANCE:

For contracts exceeding time periods of 30 days, it is required that the vendor name the City of Cocoa as an additional insured on their Liability Insurance policies and submit proof of same in the form of a certificate of insurance before work is begun. A copy of a current Certificate of Insurance shall be provided to the City by Contractor upon the Effective Date of this Agreement which satisfied the insurance requirements of this Article. Renewal certificates shall be sent to the City 30 days prior to any expiration date. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the City and the State of Florida, Department of Transportation, or as provided in accordance with Florida law.

16.7. Performance / Payment Bond – Article VII

The contractor shall furnish to the City concurrently with the execution of this contract a Performance/Payment Bond equal to 100% of the bid in the penal sum of \$ **TBD** with good and sufficient sureties, conditioned upon the performance of this contract by the Contractor in accordance with the terms and conditions hereof, within the time herein provided and with the additional obligation that such Contractor shall promptly make payment to all persons supplying him, labor, materials, and supplies, used directly by said Contractor in the prosecution of the work provided for in this contract.

16.8. Acceptance and Final Payment – Article VIII

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Owner will promptly make such inspection and when he finds the work acceptable under the contract and the contract fully performed, he will promptly issue a final certificate, over his own signature, stating the work provided for in this contract has been completed and acceptance by him under the terms and conditions thereof is recommended and the entire balance found to be due the Contractor will be paid to the Contractor at the office of the City within thirty (30) days after the date of said final certificate. Before issuance of final certificate, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills and other indebtedness connected with the work have been paid. The making and acceptance of the final payment shall not constitute a waiver of any claims of the city against the Contractor, including, but not limited to, claims arising for defective or faulty work, warranty work, unsettled liens, or the failure of the Contractor to correctly comply with the job specification. A Consent of Surety for the release of the final payment will be required.

16.9. Attorney Fees and Costs – Article IX

Should any dispute or legal action arise out of this agreement or the obligations stated herein, or any dispute or action is based upon this Agreement or any of its provisions, the prevailing party shall be entitled to

recover its reasonable attorney fees, expenses and costs incurred in connection with such a dispute or action, including, without limitation, its attorney fees and costs through appeals.

16.10. Fully Negotiated Agreement – Article X

This agreement has been fully negotiated in an arm's length transactions and neither party has been coerced in any manner to execute this agreement. Each party has opportunity to employ legal counsel and seek legal advice from such counsel with respect to this agreement, its obligations, terms and limitations.

16.11. Severability – Article XI

If any provisions of this agreement is declared or deemed invalid, unenforceable or unlawful by any tribunal or court of competent jurisdiction, such provision shall be deemed automatically modified to conform to the requirements for validity as declared at the time, and as so modified, shall be deemed a provision of this agreement as though originally included herein. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted and withdrawn from this agreement as though the provision had never been included herein. In either event, the remaining provisions of this agreement shall remain in full force and effect.

16.12. Venue and Governing Law – Article XII

The parties agree that the venue shall be exclusively in Brevard County, State of Florida, for disputes or actions which may arise out of or are based upon this agreement. Venue for any federal action or litigation shall be Orlando, Florida. This agreement shall be governed by the laws of the State of Florida where it is deemed, made and executed.

16.13. Modification and Entire Agreement – Article XIII

This agreement may only be modified, altered or amended in whole or in part, by written instrument setting forth such changes and signed by all parties hereto. This agreement constitutes the entire agreement and understanding between the parties, and oral communications and understandings are hereby deemed void and merged into this agreement.

16.14. Notices – Article XIV

Unless otherwise stated herein, all notices to the parties to this agreement shall be in writing, certified mail, return receipt request, at the address listed above.

16.15. Binding Effect – Article XV

This agreement shall be binding upon the parties, heirs, assigns, personal representatives, executors and successors.

16.16. Waiver – Article XVI

Any waiver of any breach or violation of either party's obligations under this agreement shall not be construed as a continuing waiver or consent to any subsequent breach or violations.

16.17. Independent Contractor – Article XVII

At all times during the term of this Agreement, Contractor shall be considered an independent contractor and not an employee of the City.

16.18. Change Orders – Article XVIII

Any and all change orders required under this Agreement shall be approved, in writing, by the City prior to the Contractor performing, or not performing, the work specified in the change order.

16.19. Sovereign Immunity – Article XXIX

The City intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. Contractor agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

16.20. Default by Contractor – Article XX

16.20.1. Right to Revoke / Terminate

The City reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, in the following circumstances, each of which shall represent a default and breach of this Agreement:

- a. Contractor defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within seven (7) calendar days after written notice from the City specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within seven (7) calendar days, in which case the Contractor promptly takes and diligently pursues such action as are necessary therefore; or
- b. Contractor is adjudicated bankrupt or makes any assignment for the benefit of creditors; or Contractor becomes insolvent, or is unable or unwilling to pay its debts; or

- c. Contractor has acted negligently, as defined by general and applicable law, in performing the services hereunder; or
- d. Contractor has committed any act of fraud upon the City; or
- e. Contractor has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.

Notwithstanding the aforementioned, in the event of a default by Contractor, the City shall have the right to exercise any other remedy the City may have by operation law, without limitation, and without any further demand or notice.

16.21. Termination – Article XXI

Notwithstanding any other provision of this Agreement, City may, upon written notice to Contractor, terminate this Agreement, without penalty, if:

- a. Contractor is in default pursuant to Article 20, Default by Contractor;
- b. Contractor makes a general assignment for the benefit of its creditors;
- c. Contractor fails to comply with any condition or provision of this Agreement; or
- d. Contractor is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right or remedy City may have under this Agreement.

In the event of such termination, City shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for work properly performed prior to the effective date of termination. This Agreement may be cancelled by either party with thirty (30) days written notice to the other party.

16.22. Indemnification – Article XXII

To the extent provided by law, Contractor shall indemnify, defend, and hold harmless the City and the State of Florida, Department of Transportation, including the City and Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Contractor, or any of its officers, agents, or employees, subcontractors, or independent contractors, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Contractor hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by Contractor to indemnify City for the negligent acts or omissions of City, its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by Contractor to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties.

The indemnification provided above shall obligate the Contractor to defend as its own expense or to provide for such defense, at the option of the City, as the case may be, of any and all claims of liability and all suits

and actions of every name and description that may be brought against the City or its employees and officers to the services under this Agreement whether the services be performed by the Contractor or anyone directly or indirectly employed by them. In all events the City shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included this indemnification provided herein.

The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

This indemnification shall survive the termination of this Agreement.

16.23. Corporate Representations by Contractor – Article XXIII

Contractor hereby represents and warrants to the City the following:

- a. Contractor is duly registered to do business in the State of Florida and is in good standing under the laws of Florida, and is duly qualified and authorized to carry on the functions and operations set forth in the Agreement.
- b. The undersigned representative of Contractor has the power, authority, and legal right to execute and deliver this Agreement on behalf of Contractor.

16.24. No Joint Venture – Article XXIV

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

16.25. Third Party Right – Article XXV

Nothing in this Agreement shall be constructed to give any rights or benefits to anyone other than City and Contractor.

16.26. Assignment – Article XXVI

- a. Contractor shall not assign or subcontract this Agreement, any task authorization hereunder, or any rights or any Moines due or to become due hereunder without the prior, written consent of City.
- b. If upon receiving written approval from city, any part of this Agreement is subcontracted by Contractor, Contractor shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

- c. If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Contractor who shall take immediate steps to remedy the situation.
- d. If any part of this Agreement is subcontracted by Contractor, prior to the commencement of any work by the subcontractor, Contractor shall require the subcontractor to provide city and its affiliates with insurance coverage as set forth by the City.

16.27. Designation of Project Manager - Article XXVII

The duties and authority of the City are as follows:

- a. **General Administration of Contract.** The primary function of the City is to provide the general administration of the contract. In performance of these duties and responsibilities, the authorized representative is the designated City Project Manager during the entire period of construction. The City may change the Project Manager during the term of this contract.
- b. **Inspections, Opinions, and Progress Reports.** The City shall be kept familiar with the progress and quality of the work by Contractor and may make periodic visits to the work site. The City will not be responsible for the means of construction, or for the sequences, methods, and procedures used therein, or for the Contractor 's failure to perform the work in accordance with the Contract Documents.
- c. **Access to Worksite for Inspections.** The City shall be given free access to the worksite at all times during work preparation and progress. The Project Manager is not obligated to make exhaustive or continuous onsite inspections to perform his duties of checking and reporting on work progress, and any such inspections shall not waive Owner's claim regarding defective work by Contractor.
- d. **Interpretation of Contract Documents: Decisions on Disputes.** The City will be the initial interpreter of the contract document requirements, and make decisions on claims and disputes between Contractor and City.
- e. **Rejection and Stoppage of Work.** The City shall have authority to reject work which in its opinion does not conform to the Contract Documents, and in this connection may stop the work or a portion thereof, when necessary.
- f. **Payment Certificates.** The City will determine the amounts owing to Contractor as the work progresses, based on Contractor 's applications and City 's inspections and observations, and will issue certificates for progress payments and final payments in accordance with the terms of the Contract Documents.

16.28. Progress Meeting – Article XXVIII

City’s Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the City, during the term of work entered into under this Agreement. Contractor's Project Manager and all other appropriate personnel shall attend such meetings as designated by the City’s Project Manager.

16.29. Responsibilities of Contractor – Article XXIX

Contractor's duties and rights in connection with the project herein are as follows:

- a. **Responsibility for Supervision and Construction.** Contractor shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures and means, for the coordination of all work. Contractor shall supervise and direct the work, and give it all attention necessary for such proper supervision and direction.
- b. **Discipline and Employment.** Contractor shall maintain at all times strict discipline among his employees, and he agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.
- c. **Furnishing of Labor, Materials, etc.** Contractor shall provide and pay for all labor, materials and equipment, including tools, construction equipment and machinery, utilities, including water, transportation, and all other facilities and work necessary for the proper completion of work on the project in accordance with the Contract Documents.
- d. **Payment of Taxes: Procurement of Licenses and Permits.** Contractor shall secure all licenses and permits necessary for proper completion of the work, paying the fees thereof. Contractor warrants that it (and subcontractors or tradesmen, if authorized in the Contract Documents) hold or will secure all trade or professional licenses required by law for Contractor to undertake the contract work.
- e. **Guarantee.** The Contractor hereby guarantees the Work to the full extent provided in the Plans, Specifications, General Conditions, Special Conditions and other Contract Documents. The Contractor shall remove, replace and/or repair at its own expense and at the convenience of the City any faulty, defective or improper Work, materials or equipment discovered within one (1) year from the date of the acceptance of the project as a whole by the Owner or for such longer period as may be provided in the Plans, Specifications, General Conditions, Special Conditions or other Contract Documents. Without limiting the generality of the foregoing, the Contractor warrants to the City, that all materials and equipment furnished under this Agreement will be of first-class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Agreement will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in this Agreement and in the Contract, Documents shall be in addition to and not in limitation of all other warranties or remedies required and/or arising pursuant to applicable law. Furthermore, Contractor will provide written guarantee for work and materials for one (1) calendar year after acceptance by City. The one (1) period is not a limitation upon manufacturer warranties or Contractor's payment and performance Bond(s).

16.30. Prohibition Against Contingent Fees – Article XXX

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee

working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

16.31. Public Records – Article XXXI

Pursuant to Chapter 119, Florida Statutes, Contractor agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Contractor related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Contractor. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission of Contractor are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

Upon request by the City, the Contractor shall promptly supply copies of said Public Records to the City. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during normal business hours of the Contractor be open and freely exhibited to the City for the purpose of examination and/or audit. Failure by Contractor to grant such access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If the Contractor fails to comply with this Section, and the City must enforce this Section, or the City suffers a third-party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Contractor's failure to comply with this Section, the City shall collect from Contractor prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Contractor. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of the Contractor's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

16.32 Force Majeure – Article XXXII

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

16.33. FDOT Conflict of Interest Provisions – Article XXXIII (NOT APPLICABLE)

The Contractor agrees as follows and agrees to include in each subcontract and shall require all subcontractors to include in each second tier subcontract the following:

- A. The Contractor will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulation of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the FDOT-required attachment, Title VI Assurances, in all contracts with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.
- B. The Contractor will comply with all requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the City pursuant thereto.
- C. 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 on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for construction or repair of a public building or public work; may not submit bids or 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 from the date of being placed on the convicted vendor list.
- D. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids or 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.
- E. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the City.
- F. The Contractor shall not enter into any contract, subcontract, or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer, or employee of the City, the Contractor, or its subcontractor or the locality during tenure or for 2 years thereafter has any interest, direct or indirect.

16.34. Inspector General - Article XXXIV

The Parties agree to comply with s. 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s. 20.055(5), Florida Statutes, which provides: “It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate

with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section.”

16.35. Federally Required Contract Clauses – Article XXXV

A. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Compliance with the Contract Work Hours and Safety Standards Act

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

C. Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, Federal awarding agency and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

D. Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

E. Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and , the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

F. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

G. Procurement of Recovered Materials

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site,

<https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

H. Access to Records

The following access to records requirements applies to this contract:

(1) The contractor agrees to provide the City, the State of Florida, the federal funding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the State of Florida, the federal funding agency, or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

I. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply will all applicable federal law, regulations, executive orders, procedures, and directives.

J. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

K. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

L. Compliance with the Davis-Bacon Act

a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

c. Additionally, contractors are required to pay wages not less than once a week.

d. The Contractor agrees to include these Davis-Bacon Act requirements in each subcontract.

M. Copeland "Anti-Kickback" Act

a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the City or any federal funding or state funding agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

CONTRACTOR

Signed and sealed by the Contractor in the presence of:

BY: RUSH Marine, LLC

(Contractor)

ATTEST: Anthony Landry
Anthony Landry, President

CITY OF COCOA

Signed and sealed by the City in the presence of:

BY _____

(City Manager)

ATTEST _____

17. Corporate Principal Certificate

I, David Dapore, certify that I am the secretary secretary of the corporation named as Principal in the within Bid Bond; that Anthony Landry who signed the said Bid Bond on behalf of the Principal was then President of said corporation; that I know his signature, and his signature thereto is genuine; and that said Bid Bond was duly signed, sealed and attested for in behalf of said corporation by authority of its governing body.



Signature David Dapore Title Secretary/Treasurer

Notary Public, State of

STATE OF Florida


COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Personally Known

Or

Produced Identification

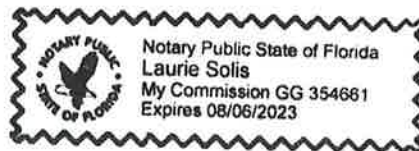


Notary Public

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023



Performance and Payment Bond will be provided upon award.

18. Performance and Payment Bond

In compliance with the Florida Statutes Chapter 255.05 (1) (a)

BOND NO.:	TBD
Contractor Name:	RUSH Marine, LLC
Contractor Address:	6285 Riverfront Center Blvd. Titusville, FL 32780
Contractor Phone No.:	321-267-8100
Surety Company:	Berkley Insurance Company
Surety Agent:	Cindy L. Mirisola
Owner Name:	City of Cocoa
Owner Address:	65 Stone St. Cocoa, Florida 32922
Owner Phone No.	(321) 433-8833
Owner Fax No.	(321) 433-8860
Owner Email:	Purchasing@cocoafl.org
Contract Date:	TBD
Contract Amount:	\$ Upon award
Bond Amount:	\$ 5% of contract value. TBD.
Contract No. (if applicable):	TBD
Description of Work:	Cocoa Riverfront Park Promenade Improvements
Project Address:	430 Delannoy St, Cocoa FL 32922
Legal Description:	Parcel ID 24-36-33-06-*-11
Bid Number:	B-20-08-COC

BY THIS BOND, we RUSH Marine, LLC as Principal
and Berkley Insurance Company, Inc a Corporation as Surety,
are bound to City of Cocoa, herein called Owner, in the sum
of \$ _____, for payment of which we bind
ourselves, our heirs, Personal representatives, successors, and assigns, jointly and severally.

CONDITIONS OF THIS BOND if Principal:

- a. Performs the contract dated TBD, 20 , between Principal and Owner for Sidewalk Improvements as specified for the Dixon Blvd and Forrest Ave location as the contract being made a part of this bond by reference, at the times and in the manner prescribed in this contract; and
- b. Promptly makes payments to all claimants, as defined in section 255.05 (1) Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution if the work provided for the contract; and
- c. Pays Owner all losses, damages, expenses, cost and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
- d. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, and shall remedy any defects in the work due to faulty materials or workmanship or failure to properly maintain during the length of the Contract, and pay for all damage to other work, person, or property resulting there from, which shall appear within a period of one (1) year from the date of final acceptance of the work provided for in the Contract, then this bond is to be void; otherwise it remains in full force and effect.

IN WITNESS WHEREOF, the said Principal and Surety have assigned and sealed this instrument this TBD day of TBD 20 .

CONTRACTOR AS PRINCIPAL

Company:

RUSH Marine, LLC
(Corporate Seal)

Signature *Anthony Landry*
Anthony Landry

Title President



SURETY

Company: Berkley Insurance Company, Inc.

(Corporate Seal)

Signature _____

Title _____

APPROVED as to form and execution:

BY _____
Attorney to Board of
City Council Members
City of Cocoa, Florida

Any claims under this bond may
be addressed to:
(Name and Address of Surety):

Phone _____

Telephone Number
Name and Address of
agent or Representative
in Florida if Different from above

Phone _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/21/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sihle Insurance Group, Inc. 1021 Douglas Ave. Altamonte Springs FL 32714	CONTACT NAME: Certificate Department PHONE (A/C, No, Ext): 407-869-0962 E-MAIL ADDRESS: certificates@sihle.com		FAX (A/C, No): 407-774-0936
	INSURER(S) AFFORDING COVERAGE		
INSURED RUSH Marine LLC 6285 Riverfront Blvd Titusville FL 32780	INSURER A : Old Dominion Insurance Company		NAIC # 40231
	INSURER B : Mitsui Sumitomo Insurance USA Inc.		22551
	INSURER C : NEW YORK MARINE & GNRL INS CO		16608
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER: 1931629257

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y		ML201900002185	4/1/2019	4/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			B1P9522H	7/18/2019	7/18/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP \$ 10,000
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 25,000			ML201900002184	4/1/2019	4/1/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC201900019337	4/1/2019	4/1/2020	<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	EXCESS LIABILITY			OLM2510139	4/1/2019	4/1/2020	EACH OCCURRENCE 9,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Protection & Indemnity \$1,000,000
 Leased & Rented Equipment: \$500,000 subject to \$2,500 deductible provided by Policy #IM201900006203
 Jones Act includes 4 Crew

RE: BID # B-20-08-COC - # B19-113 Cocoa Riverfront Park Promenade Improvements

City of Cocoa is included as Additional Insured with respect to General Liability when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Cocoa 65 Stone St. Cocoa FL 32922	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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20. Affidavit Regarding Workmen's Compensation

Anthony Landry
(Authorized Signature)
Anthony Landry,
President

RUSH Marine, LLC

Phone: 321-267-8100

Fax: 321-267-9944

Name of Business

Phone & Fax Number

6285 Riverfront Center Blvd., Titusville, FL 32780

(Printed Name and Title)

Business Mailing Address

City, State, Zip

Anthony Landry being duly sworn according to law, deposes and says (it, he they) has accepted the Workmen's Compensation laws of the State of Florida, with its supplements and amendments and his insured (its, his, their) liability thereunder in accordance with the terms of said Laws with the RUSH Marine, LLC Company, under the terms of Policy No. WC201900019337 for a period from April 1st, 2019 to April 1st, 2020.

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of December, 2019, by Anthony Landry the President of RUSH Marine, LLC, a marine construction company (check one) who is personally known to me or who produced _____ as identification.

Personally Known
Or
Produced Identification

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023



21. Certificate of Insurance for Workmen's Compensation

This is to certify that Sihle Insurance Group, Inc,
Company has issued to RUSH Marine, LLC,
of the City of Cocoa, State of Florida,
the following policy or policies: Workmen's Compensation and Employer's Liability
Policy No. WC201900019337 effective on April 1st, 2019,
re Worker's Compensation Policy No. ML201900002185
effective on April 1st, 2019 and expiring on April 1st
2020 re General Liability limits \$1,000,000
each occurrence.

If at any time this coverage is to be cancelled, the undersigned will notify the insured and the City of Cocoa, Purchasing Department in writing thirty (30) days prior to cancellation of policy.

(This certificate must be made by a duly authorized official of the Insurance Company carrying the risk, or a separate certificate of similar context executed on Insurance Company's Standard Form may be attached hereto.)

Notary Public, State of

STATE OF Florida

COUNTY OF Brevard

The foregoing instrument was worn to and subscribed before me on this 5th day of
December, 2019, by Anthony Landry the President of
RUSH Marine, LLC, a marine construction company (check
one) who is personally known to me or who produced
_____ as identification.

Personally Known

Or

Produced Identification

Laurie Solis

Notary Public

Print Name: Laurie Solis

My Commission expires: 08/06/2023



22. Section 1K – Florida Trench Safety Act

(Certification and Discharge Statement Mandatory)

Bidder acknowledges that included in the various items of the proposal and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The bidder further identifies the costs to be summarized below.

	Item	Trench Safety Measure Description	Unit of Measure	Unit	Unit Cost	Extended Cost
A	N/A					
B						
C						
D						

These units, costs, and the unit prices inferred shall be disclosed solely for the purpose of compliance with the procedural requirements of the Florida Trench Safety Act.

This amount disclosed as the cost of compliance with the applicable trench safety requirement does not constitute the extent of the Contractor's obligation to comply with said standards. Contractor shall expend additional sums, at no additional cost to the OWNER (except as may otherwise be provided), which are necessary to so comply.

Acceptance of the bid to which this certification and disclosure applies in no way represents that the OWNER or its representatives have evaluated and thereby determined that the above costs are adequate to comply with the applicable trench safety requirements nor does it in any way relieve the bidder, as Contractor, of its sole responsibility to comply with the applicable trench safety requirements.

RUSH Marine, LLC

Name of Firm


Authorized Signature Anthony Landry

Date: 12/05/2019

This document shall be submitted with the Bid packet. Failure to complete the above may result in the bid being declared non-responsive.

27. No Bid Response to Invitation to Bid

IF YOUR FIRM IS UNABLE TO SUBMIT A BID AT THIS TIME, PLEASE PROVIDE THE INFORMATION REQUESTED IN THE SPACE BELOW AND RETURN TO:

CITY OF COCOA
Purchasing Division
65 Stone St.
Cocoa, Florida 32922

N/A

WE HAVE RECEIVED AN INVITATION TO BID # B-20-08-COC

Cocoa Riverfront Park Promenade Improvements

OPENING DATE: **December 2, 2019**

OPENING TIME: **3:30 p.m.**

REASON FOR NOT BIDDING: N/A, RUSH Marine will be bidding
bid # B-20-08-COC.

Company Name: N/A

Address: N/A

City: N/A State: _____ Zip: _____

Signature: N/A Title: N/A

Date: N/A