

TERM CONTRACT FOR PROJECT MANAGEMENT SERVICES

This Agreement made and entered into on this _____ Day of _____ 2024, by the City of Clearwater and Freese and Nichols, Inc., the (“Firm”) whose principal place of business is located at 1000 N. Ashley Drive, Suite 100; Tampa, FL 33602.

The City of Clearwater desires to retain the services of a qualified firm to assist with the management of construction projects for the City’s Public Works and Public Utilities Departments on an as-needed basis.

The Firm will not be providing “Professional Services” as defined by § 287.055, and therefore, this Contract is not entered into pursuant to those provisions of law.

I. Contract Term.

The Contract Term shall be for three years commencing on July , 2024, or the date of the last signature on this Contract, whichever occurs later.

II. Renewal and Termination.

Upon mutual written agreement, the Parties may renew this Contract, in whole or in part, for a Renewal Term of an additional three years. The City may terminate this Contract at any time and for any reason with thirty day’s written notice. The Firm may terminate this Contract with ninety day’s written notice, and must provide all relevant project information as described below along with the Notice to ensure that the City can maintain project schedules and critical timelines.

III. Contract.

As used in this document, “Contract” shall, unless the context requires otherwise, include this document and all associated Bid Documents under RFP #22-24, which are incorporated into this Contract by reference. These documents set forth the entire understanding of the Parties and supersede all prior discussions, negotiations, or agreements. All modifications to this Contract must be in writing and signed by the appropriate representative of each Party.

IV. Scope of Work

The City of Clearwater (City) is embarking on a number of utilities, engineering, and capital improvements projects. The City has requested that the Firm perform project management services in support of these various projects, working as an extension of City staff. This Contract provides for Project Management (PM) services to be provided by the Firm on an as-needed basis by the City.

The Firm will make project management professional(s) available and dedicated to support City projects for an “hours per week” commitment as the City and Firm decide based upon the City’s needs and budget. The types of services that the Firm may provide includes:

- a. Undergo training on the City Project Management systems, policies and procedures;
- b. Coordinate / correspond with multiple contractors, consultants, City staff, and other stakeholders;
- c. Review contracts, scopes of services, and fee proposals.

- d. Review and comment on deliverables.
- e. Review and comment on schedules.
- f. Review and process invoices and payment applications.
- g. Distribute deliverables and route other documents for review by City staff.
- h. Compile comments and return City comments to contracted parties.
- i. Process requests for information by contractors and consultants and coordinate the provision of requested / available documentation.
- j. Track schedule and budget of contractor and consultant contracts on behalf of the City.
- k. Attend meetings, both internal to the City as well as with consultants and contractors.
- l. When appropriate, lead meetings and distribute meeting minutes.
- m. Perform site visits to observe City facilities, operations, and construction progress.
- n. Monitor the consultant and to ensure project participants complete activities to support a defined project plan, schedule, and budget.
- o. Other tasks or duties as the City identifies.

In addition to the examples above, the Firm may perform general administrative duties associated with the project, including project set-up, resource management, progress monitoring, scheduling, general correspondence, office administration, and invoicing.

The Firm shall maintain accurate project documentation, filing, and project cost accounting systems throughout the Project. The Firm will maintain continuous control over the quality of all its work efforts. Monthly progress reports will be delivered with each invoice in a form that is acceptable to the City.

V. Fees

The Firm shall invoice based on the Billing Rates that were provided as part of the Firm's response to the City's RFP #22-24. If Billing Rates are not provided for certain personnel or new personnel are not covered by the previously submitted Proposal, the Firm shall promptly update the Firm's Fee Schedule and provide it to the City. The Fee Schedule shall be binding throughout the term of this Contract. Prices shall include all labor and expenses anticipated to be incurred by the Firm that would be invoiced to the City. If it is anticipated that the Firm's fees will exceed \$100,000 in a fiscal year, then a specific Work Order or Task Authorization shall be prepared and submitted to the City Council for approval.

No permit costs shall be included as part of the Firm's expenses. Travel Costs and other Contingency Costs may only be approved at the discretion of the City, which must be requested and approved in writing prior to incurring.

VI. Project and Staff Assignment

The Firm will provide project management support services as-needed and as the City's budgets allow. The Firm agrees to adjust the personnel assigned to the Project(s) as appropriate to provide adequate service to the City. The City may adjust the support services required by the Firm in the City's sole discretion.

The City will assign specific projects to the Firm via a written Notice to Proceed, Work Order, or Task Authorization that will include the name and location of the Project, and the assigned Point of Contact or Internal Project Manager within the City. Upon acceptance of the project assignment, the Firm will provide the City with a list of the Names, Titles, and Contact Information for each staff assignment made for the Project. The City has the sole discretion to reject an

assignment by the Firm and to request a different personnel assignment be made. Key personnel assigned to projects will not be removed from the project until an alternate personnel acceptable to the City is approved in writing. The City maintains the sole discretion to remove the Firm from a project at any time or to request a reduction in service from the Firm. The City shall pay for any approved work or expenses already incurred at the time of removing the Firm from a project.

VII. Invoicing Procedures

Invoices shall be submitted by the Firm on a monthly basis for work performed to the following address:

CITY OF CLEARWATER, PUBLIC UTILITIES DEPARTMENT
ATTENTION: PU ACCOUNTING
1650 N ARCTURAS AVE BLDG-C
CLEARWATER, FLORIDA 33765-1945
PUEngineering@myclearwater.com

CITY OF CLEARWATER, PUBLIC WORKS DEPARTMENT
ATTENTION: PWD ACCOUNTING
100 S. MYRTLE AVE. SUITE #220
CLEARWATER, FLORIDA 33758

Contingency services and Travel Expenses will be billed as incurred only after written authorization provided by the City to proceed with those services.

At a minimum, in addition to the invoice amount(s) the following information shall be provided on all invoices submitted under this Contract:

- a. Purchase Order, Project and Invoice Numbers and overall Contract Amount.
- b. The time-period (begin and end date) covered by the invoice.
- c. A short narrative summary of activities completed in the time-period.
- d. Contract billing method – Lump Sum or Hourly Rate.
- e. If Lump Sum, the percent completion, amount due, previous amount earned and total earned to date for all tasks (direct costs, if any, shall be included in lump sum amount).
- f. If Hourly Rate, hours, hourly rates, names of individuals being billed, amount due, previous amount earned, the percent completion, total earned to date for each task and other direct costs (receipts will be required for any single item with a cost of \$50 or greater or cumulative monthly expenses greater than \$100).
- g. If the Work Order for the Project is funded by multiple funding codes, an itemization of tasks and invoice amounts separated by funding code.

VIII. Additional Considerations:

In addition to the above considerations, the Firm also acknowledges the following:

- a. The Firm is required to comply with Chapter 119, Florida Statutes, Public Records laws where applicable.
- b. All City directives shall be provided by the appropriate City personnel or City management staff as identified on the Notice to Proceed, Work Order, or Task Authorization, which assigned the project.

- c. "Alternate equals" shall not be approved until the City agrees in writing.
- d. All submittals must be accompanied by evidence that each has been internally checked by the Firm for QA/QC before providing to City.
- e. Neither the Firm nor its Consultants/Contractors/Employees/Agents are permitted to use City-owned equipment (i.e. sampling equipment, etc.). The Firm agrees to provide all equipment necessary to perform the services required by this Contract.
- f. Any documents posted on the City's website must ADA accessible.
- g. All work orders, task authorizations, and services provided under this Contract should include considerations for the following:
 - Sea Level Rise and Flood Resilience, as applicable.
 - Submittal of a Critical Path Method (CPM) Schedule(s).
 - Submittal of a Project Catalog with the following items, as appropriate: Data requests, assumptions, critical correspondence, meeting agenda, sign-in sheets, meeting minutes, document comment-response log(s), technical memorandum/reports, addenda, progress reports, regulatory correspondence, and other project-related documents.

For construction projects, the Firm will compile all design plans, conformed plans, change orders, field orders, RFI's, work change directives, addenda, progress reports, shop drawing and progress submittals, as-builts, record drawings, and other project-related documents such as O&M manuals and warranty information.

At the conclusion of an assigned project, the Firm will combine this information (and any other relevant and applicable information) into a Project Catalog and submit to the City for review and comment.

Unless otherwise required by law or judicial order, the Firm agrees that it shall make no statements, press releases or other public communication concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data, technical processes, business affairs or other information obtained or furnished in the conduct of work under this Agreement without first notifying the City and securing its consent in writing. The Firm also agrees that it shall not publish copyright or patent any of the site-specific data or reports furnished for or resulting from work under this Agreement. This does not include materials previously or concurrently developed by the Firm for "In House" use. Only data and reports generated by the Firm under this Agreement shall be the property of the CITY.

The City also has the following Arc Flash labeling requirements:

- a. All electrical designs and construction shall adhere to NFPA 70 E "Standard for Electrical Safety in the Workplace".
- b. Updated calculations of Fault and Arc Flash, and provisions for new or updated Arc Flash equipment labeling shall be included in the contract documents.

The City maintains the discretion to change documentation requirements based on a project's needs and shall notify the Firm of any such change.

IX. Insurance and Indemnification

The Firm shall at all times throughout the duration of this Contract maintain all insurance types and coverage amounts as required by the City's Risk Management Department, which may be amended from time to time according to the City's policies and procedures.

The Firm will indemnify and hold harmless the City, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Firm and other persons employed or utilized by the Firm in the performance of the contract.

Acceptance of the Firm's work by the City or Agreement termination does not constitute City approval and will not relieve the Firm of the responsibility for subsequent corrections of any errors and/or omissions and the clarification of any ambiguities. The Firm shall make all necessary revisions or corrections resulting from errors and/or omissions on the part of the Firm without additional compensation. If these errors and/or omissions are discovered during the construction of the project, they shall be corrected without additional compensation.

X. Compliance with Laws and Regulations

The Firm will comply with all federal, state and local laws and ordinances applicable to the work or payment for work, and will not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the performance of work under this Contract.

The Firm warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Firm, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this Paragraph, the City shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

- a. Pursuant to Florida Statute § 287.132-133, the City of Clearwater, as a public entity, may not accept any proposal from, award any contract to, or transact any business in excess of the threshold amount provided in § 287.017, F.S., for Category Two (currently \$35,000) with any person or affiliate on the convicted vendor list for a period of 36 months from the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to § 287.133 (3)(f), F.S. By submitting a proposal, Firm is certifying that Florida Statute 287.132 and 287.133 does not restrict submission.
- b. The Firm will be required to comply with Section 287.135, Florida Statutes, specifically by executing the forms provided (attached).
- c. All terms and conditions as set forth in RFP #22-24, Terms of Conditions are incorporated by reference.
- d. Any inconsistency in documents relating to this Agreement shall be resolved by giving precedence in the following order: (i) this Agreement and subsequent Amendments; (ii) RFP #22-24, Terms and Conditions; and (iii) Work Orders or Task Authorizations.
- e. The Laws of the State of Florida shall govern this Contract. This Contract may not be assigned without the City's prior written consent.

[Signature Page to Follow]

CITY OF CLEARWATER, FLORIDA

Countersigned:

Bruce Rector
Mayor
Date: _____

By: _____
Jennifer Poirrier
City Manager
Date: _____

Approved as to form:

Attest:

Jerrod Simpson
Sr. Assistant City Attorney
Date: _____

Rosemarie Call
City Clerk
Date: _____

Attest:

FREESE AND NICHOLS, INC.

Print Name: _____
Secretary

By: _____
Print Name: Adam Payne
Title: Vice President / Principal
Date: 10/25/24