

1205

WORK ORDER AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into at Tampa, Florida, this 5 day of APRIL, 2012, by and between the CITY OF TAMPA, a municipal corporation of the State of Florida, hereinafter referred to as "CITY," the address of which is 315 East Kennedy Boulevard, Tampa, Florida 33602, and Woodroffe Corporation Architects, a Corporation existing under the laws of the State of Florida, hereinafter referred to as "CONSULTANT," the address of which is 5005 West Laurel Street, Suite 215, Tampa, Florida 33607.

WITNESSETH:

WHEREAS, the CITY proposes to do certain work and improve certain physical facilities within the operational jurisdiction of the various City Departments; and

WHEREAS, the CITY desires to direct the CONSULTANT to perform certain professional services pertinent to such work in accordance with this Agreement and with Work Orders to be issued subsequently; and

WHEREAS, the CONSULTANT desires to provide such professional services in accordance with this Agreement; and

WHEREAS, the CONSULTANT represents that it is eligible for selection for this work pursuant to The Consultants Competitive Negotiation Act, Fla. Stat. 287.055.

NOW, THEREFORE, in consideration of the premises and of mutual covenants herein set forth, the parties hereto agree as follows:

I. GENERAL SCOPE OF THIS AGREEMENT

A. The relationship of the CONSULTANT to the CITY will be that of an independent professional consultant, for which the CONSULTANT shall provide the professional and technical services required under this Agreement in accordance with acceptable engineering/architectural practices and ethical standards. In addition, the CONSULTANT owes a duty to the CITY to meet the work's intended quality, scope, and schedule and to serve the best interest of the CITY in meeting the CITY'S needs.

B. The CONSULTANT shall work with the CITY and apprise it of solutions to engineering/architectural problems and the approach or technique used to accomplish the CITY's objectives as set forth in the Work Orders, which are made a part of this Agreement upon execution by both parties.

C. The scope of services to be provided shall be covered in detail by said Work Orders.

II. DATA AND SERVICES TO BE PROVIDED BY THE CITY

The CITY shall provide:

A. Available plans and specifications of existing construction.

B. Other data and services to be agreed upon in subsequent Work Orders.

III. PERIOD OF SERVICE

A. The CONSULTANT shall begin work promptly after receipt of a fully executed copy of each Work Order.

B. The CONSULTANT's services called for under this Agreement shall be completed in accordance with the schedule contained in each Work Order; provided that, if the CONSULTANT's services are delayed for reasons beyond the CONSULTANT's control, the time of performance shall be adjusted appropriately.

IV. AGREEMENT PERIOD

This Agreement shall be in effect from date of its execution by both parties until April 1, 2014, or until such time as all outstanding work orders issued prior to expiration of this period have been completed. This Agreement may be renewed for an additional one-year period if agreed to in writing by both parties and approved, upon recommendation of the Mayor, by the City Council.

V. GENERAL CONSIDERATIONS

A. All original sketches, tracings, drawings, computations, details, design calculations, and other documents and plans that result from the CONSULTANT's services performed hereunder shall become the property of the CITY upon receipt by the CONSULTANT of payment from the CITY for services rendered in connection with the preparation of said sketches, tracings, etc. Where documents must be filed with other governmental agencies, the CONSULTANT shall furnish copies to the CITY upon request.

B. The CITY acknowledges that the documents cited in the paragraph above which are provided by the CONSULTANT are not intended for use in connection with any project or purpose other than the project and purpose for which such materials are prepared.

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

VI. COMPENSATION

A. The CITY shall compensate the CONSULTANT for the services performed per a Work Order that is in accordance with a negotiated lump sum, cost plus fixed fee, or subsequently established hourly rates.

B. Sub-contractual services, if any, shall be invoiced at the actual fees paid by the CONSULTANT, without mark-up.

C. Reimbursable expenses shall be invoiced at the actual expenditures incurred by the CONSULTANT as follows:

1. Expenses of transportation and living when traveling in connection with each Work Order, long distance telephone calls and telegrams, and fees paid for securing approval of authorities having jurisdiction over the Work Order. (Travel expenses shall be in accordance with the CITY's travel and per diem cost allowance schedule)

2. Expenses of reproductions, postage and handling of drawings and specifications including duplicate sets at the completion of each Work Order for the CITY's review and approval.

3. Expense of overtime work requiring higher than regular rates, only when authorized in writing by the CITY.

4. Expense of models for the CITY's use.

5. Expense of computer time.

6. Expense of Auto Travel at fifty cents per mile.

D. Total compensation for all services and reimbursable expenses shall not exceed the upset limit listed upon each Work Order without written approval.

E. Total compensation for all services and reimbursable expenses shall not exceed \$100,000.00 per Work Order.

VII. PAYMENT

Payments for basic services, sub-contractual services, and reimbursable expenses as defined in Section VI shall be made upon the CITY's approval of the CONSULTANT's invoice. Itemized invoices for reimbursable expenses must be accompanied by valid original receipts.

VIII. RECORDS

Records of reimbursable expenses and expenses pertaining to sub-contractual services required by the Work Order and for personnel expenses shall be kept on a generally recognized accounting basis and shall be available to the CITY or its authorized representative for inspection at mutually-convenient times.

IX. PERSONNEL

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

X. TERMINATION

A. Termination for Cause:

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

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

B. Termination for Convenience.

The CITY may reduce the scope of work or terminate work under this Agreement or amendment to this Agreement without cause; in the event of such scope reduction or termination other than for cause, the CITY shall compensate the CONSULTANT for services properly performed through the date of such reduction in scope or termination, which date shall be fixed in written notice from the CITY and which date shall be not sooner than fifteen (15) days after notice. Notwithstanding such termination or reduction in scope, the CITY shall be entitled to receive from the CONSULTANT upon request any and all information related to the PROJECT and the CITY shall preserve and protect all such information and assure ready access thereto by the CONSULTANT in connection with resolution of the amount due to the Firm. The City, at its own discretion, shall be entitled to direct the CONSULTANT to terminate any or all the CONSULTANT's subcontracts or subconsulting agreements. In the event the project is terminated for convenience pursuant to this Article, the CONSULTANT shall deliver all original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans that result from the CONSULTANT's services under this Agreement. The aforementioned original sketches, tracings, drawings, computations, details, design calculations, specifications and other documents and plans shall be without restriction on future use by the CITY.

XI. INSURANCE

During the life of the Agreement, the CONSULTANT shall provide, pay for, and maintain with insurance companies satisfactory to the CITY, insurance as indicated in Exhibit A.

XII. INTERESTS OF MEMBERS OF THE CITY

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

XIII. INTEREST OF THE CONSULTANT

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

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

XIV. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with the applicable requirements of Federal, State or local laws and all Codes and Ordinances of the CITY as amended from time to time.

B. When a Work Order involves E.P.A. Grant eligible work, the provisions of 40 CFR, Part 35, Appendix C-1, shall become a part of this Agreement through that Work Order as if in haec verba included, and such provisions shall supersede any conflicting provisions of this Agreement for work performed under said Work Order.

C. For Work Orders involving work under other Federal or State Grantors or Approving Agencies, the CITY and the CONSULTANT shall review and approve the applicable required provisions or any other supplemental provisions as may be included in each Work Order.

D. Truth-In-Negotiation Certification: The CONSULTANT certifies that the wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of the execution of the Agreement of which this Certificate is a part. The original price and any additions thereto shall be adjusted to

exclude any significant sums by which the City determines the Agreement amount was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs and that such original Agreement adjustments shall be made within one (1) year following the end of the Agreement.

XV. ASSIGNABILITY

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

XVI. EQUAL EMPLOYMENT

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

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

B. All solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, must state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, sex, sexual orientation, family status, marital status, handicap, or national origin.

XVII. EQUAL BUSINESS OPPORTUNITY PROGRAM

A. The CONSULTANT shall endeavor to utilize City of Tampa Certified Small Local Business Enterprise, SLBE, sub-consultants, sub-contractors or suppliers.

B. The CITY shall make available a list of Certified SLBE & W/MBE businesses.

C. At the time of the submission of its proposals, the CONSULTANT shall submit to the CITY a report on forms "DMI-Solicited" and "DMI-Utilized" of any sub-consultants, sub-contractors or suppliers.

D. At the time of submission of its invoices, the CONSULTANT shall submit to the CITY a report on form "DMI-Payments" of all Sub-consultant contract amounts and payments along with and any other completed reports or forms as may be required by the CITY.

XVIII. CITY CODE OF ETHICS

In connection with this Agreement, the CONSULTANT hereby covenants and agrees that it shall comply with all applicable governmental laws, statutes, rules and regulations including, without limitation, the City of Tampa's Code of Ethics. Pursuant to Section 2-522 of the City of Tampa Code, the CONSULTANT acknowledges that if it fails to comply with the City of Tampa's Code of Ethics, such a failure shall render this Agreement voidable by the City and subject the CONSULTANT to debarment from any future City contracts or agreements.

XIX. NEGATION OF AGENT OR EMPLOYEE STATUS

The CONSULTANT shall perform this Agreement as an independent Consultant; and nothing contained herein shall in any way be construed to constitute the CONSULTANT or the assistants of the CONSULTANT to be representatives, agents, subagents, or employees of the CITY or any political subdivision of the State of Florida. The CONSULTANT certifies the CONSULTANT's understanding that the CITY is not required to withhold any federal

income tax, social security tax, state and local tax, to secure workers' compensation insurance or employer's liability insurance of any kind or to take any other action with respect to the insurance or taxes of the CONSULTANT and assistants of the CONSULTANT.

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

XX. SEVERABILITY

If any provision of this Agreement is determined to be invalid, unequal or unenforceable, the remaining provision of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable to the extent permitted by law.

XXI. CHOICE OF LAW

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

XXII. DESIGNATION OF FORUM

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

XXIII. AUTHORIZATION

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

XXIV. ENTIRE AGREEMENT

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

XXV. INDEMNIFICATION

To the greatest extent permitted by law, including §725.08, Florida Statutes, CONSULTANT shall indemnify and hold harmless the City, its officers and employees, from all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligent acts, recklessness, or intentional wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement.

XXVI. ESTOPPLE/WAIVER

No waiver of any provisions of this Agreement shall be effective unless it is in writing, signed by the party

against whom it is asserted and any such waiver shall only be applicable to the specific instance in which it relates and shall not be deemed to be a continuing waiver.

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

XXVII. BUDGET APPROPRIATIONS

The City is subject to Section 166.241, Florida Statutes, and is not authorized to contract for expenditures in any fiscal year except in pursuance of budgeted appropriations. With respect to this Agreement, the City has budgeted and appropriated sufficient monies to fund the City's obligations under this Agreement; however, all funding under this Agreement for subsequent years is subject to the availability of funds. The obligations of the City hereunder shall not constitute a general indebtedness of the City within the meaning of the Florida Constitution.

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

ATTEST:

[Signature]
(SEAL) City Clerk Deputy City Clerk

CITY OF TAMPA

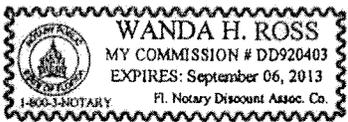
By: [Signature]
Bob Buckhorn, Mayor

ATTEST:

By: [Signature]
(SEAL)
Name: Wanda H. Ross
Title: Notary Public

Woodroffe Corporation Architects

By: [Signature]
Name: Enrique A. Woodroffe, FAIA, LEED® AP
Title: President / Owner
(Pres., V-Pres., Partner, Owner, Member)
Corporation LLC ()



APPROVED AS TO LEGAL SUFFICIENCY

[Signature]
Justin R. Vaske
Assistant City Attorney

The execution of this document was authorized by Resolution No. 2012 - 307

(NOTE: Corporate signer must be corporate officer or attach copy of authorization to sign on behalf of the corporation. Attester must be a corporate officer, notary public, or attach copy of authorization to sign on behalf of the corporation.)