

THE CITY OF TREASURE ISLAND, FLORIDA



INVITATION TO BID NO. 1718-15

MULTI-FAMILY AND COMMERCIAL RECYCLING SERVICES

ADDENDUM NO. 2 ISSUED JUNE 21, 2018

Note: Questions can still be submitted in writing until Monday, June 25, 2018 at 5 PM.

Please note the City's Contract has been updated and modified. The revised version of the City's Contract is attached to this Addendum as Exhibit A.

Responses to Questions Received Through June 20, 2018:

- 3. Question:** Litigation Disclosure p. 24 – The form seeks “litigation pending or outstanding”. Waste Management Inc. of Florida (WMIF) has thousands of commercial customers/contracts and many franchise agreements with governmental entities. There are regular and usual financial collection activities associated with these agreements. In addition, there are employment matters, workers compensation matters, and similar matters that are routine for a large corporation. None of these are material to our ability to perform and would be burdensome to attempt to disclose. We request that the disclosure be limited to matters involving governmental entities. Please advise.

Response: The language on page 24 of the Invitation to Bid involving litigation disclosure is deleted and modified as follows:

Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture) involving allegations of the failure to provide services, allegations of breach of contract, or disputes involving any government entity?

4. **Question:** Termination p. 33 – This section allows termination by the City at its convenience. Given the substantial capital outlay for carts, we request that termination be restricted to termination for cause.

Response: The termination language is the same as provided in the City’s existing single family recycling contract. For more information, please refer to the response provided to Question 1 in Addendum No. 1. Paragraph 30 on page 33 of the Invitation to Bid has been modified to delete the existing five (5) day notification period to retain the 30 day notification period put forth in Section of the Contract. Paragraph 30 on page 33 of the Invitation to Bid is deleted and modified as follows:

A contract may be terminated in whole or in part by the City at any time and for any reason in accordance with this clause, whenever the City determines, in its sole discretion that such termination is in the best interests of the City. An equitable adjustment in the contract price will be made for the completed service, but no amount will be allowed for anticipated profit on unperformed services.

5. **Question:** Indemnification p. 35 – The indemnity does not exclude claims that result in whole or part from the City’s act, omissions or other fault. Will the City consider modifying the indemnity so that the contractor must indemnify the City to the extent of the contractor’s fault, negligence, violation of law or breach of contract?

Response: SECTION 15 INDEMNIFICATION in the Contract is deleted and replaced as set forth in the attached Contract. Please see the attached Contract at SECTION 15 on page 7.

8. **Question:** Other – In addition, neither the solicitation nor the contract addresses issues of force majeure, change in law, or extraordinary rate adjustments. Will the City consider addressing these in the documents?

Response: SECTION 5 COMPENSATION has been amended to include a Force Majeure provision as set forth in the attached Contract. Please see the attached Contract at SECTION 5 page 4. All rate adjustments are provided for in the Contract. Please see the attached Contract at SECTION 5 on page 4.

13. **Question:** Can the selected contractor reject commercial service at their discretion, or based on items that have little or no market?

Response: If the contractor rejects commercial single stream service for a specific business, the contractor must provide notification to the City. Another option would be for the contractor to petition the City to eliminate a material(s) from the commercial single steam collection service using the method provided in Section IID of the Invitation to Bid.

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21. **Question:** Would the City consider extending the Due date of this bid one or two weeks? Many topics were brought up for discussion in the June 18 pre-bid meeting. As such an extension would give the vendors and the City more time to research answers to questions.

Response: The topics that were brought up at the pre-bid meeting have been addressed in responses issued in Addendum Nos. 1 and 2. At this time, the City is not considering an extension for the bid submissions.

22. **Question:** To confirm, All Multi-Families will be serviced 1x/week? The City does not expect and/or

will approve a site going more than 1x/week.

Response: Please refer to the response to Question 11 provided in Addendum No. 1.

23. **Question:** To confirm, the City is looking for 96-Gallon carts only?

Response: For multi-family recycling service, the City is only considering 96 gallon (plus or minus 5% by volume) roll carts, as stated in Section IIC in the Invitation to Bid.

24. **Question:** To confirm, the vendor can service the multi-family sites any day of the week?

Response: Please refer to the response to Question 2 provided in Addendum No. 1.

25. **Question:** Will the City set up a system with the winning vendor to deal with contaminated carts? Will the vendor have the right to reject carts if they feel they are contaminated? Will City work with the winning vendor to try and curb contamination issues if they present themselves.

Response: Please refer to the response to Question 14 provided in Addendum No. 1.

26. **Question:** Will the winning vendor be required to provide commercial businesses recycling if they request it? Will the winning vendor have the right to decline service if they feel it is in their best interest?

Response: Please refer to the response to Question 13 provided above.

27. **Question:** If the winning vendor does provide service to the commercial business will the business be bound to the term of the current City contract? Will the commercial business have the right to cancel service if they desire?

Response: The business will not be held to the term of the City's contract and the business will be able to cancel the service as desired.

28. **Question:** If/when the recycling market comes back more hauling companies might want to go after commercial recycling. As such, will commercial businesses have the right to cancel a contract with the winning vendor in order to set up service with another company?

Response: Yes, the City does not hold any commercial entity to the City's contract or its pricing; it is an open market.

29. **Question:** Will the vendor have the right to cancel service with a commercial business if the business in question has contamination issues they will not correct?

Response: Yes, upon providing verification to the City that the contractor informed the business of the contamination issue, and the issue was not corrected. The City is willing to assist with education efforts as well.

30. **Question:** The current ITB asks for pricing on Single Stream recycling. If a commercial business wants or only needs cardboard recycling will the winning vendor be bound to the terms of contract?

Response: The contract provides for single stream commercial pricing only; however, the contractor can offer different services to the businesses, as needed (such as cardboard only recycling), at a price not specified in the contract.

31. **Question:** The current contract asks for pricing on a yardage basis for commercial customers via front end service? If a vendor does not offer front end service for single stream recycling can the

winning vendor offer cart service? If yes, can the bid price pages be changed to allow for cart pricing?

Response: Please refer to the response to Question 12 and the updated Schedule B table provided in Addendum No. 1.

32. **Question:** Within the ITB, the City is requesting a Performance Bond that must be in the amount of “100% of the services guaranteeing to the City”. Contracts of this type are usually written on an annual renewable bond form in the amount of one year’s revenue. Would this be acceptable for the Performance and Payment Bond on this contract?

Response: No, this is a 2 year, 10 month contract and the performance bond must cover 100% of the multi-family service over this duration.

33. **Question:** To clarify, would the Performance Bond be calculated for the services only offered to the Multi-family sites and the not commercial businesses? At this point vendors are unaware of how many businesses will take advantage of this contract.

Response: Yes, the Performance Bond is calculated for the Services only offered to the Multi-Family sites and not the commercial businesses.

34. **Question:** Will the City consider language that will allow the vendor to alter pricing if the price of processing recycled material drastically goes up during the term of the contract? This would be a similar situation if this was a solid waste contract and the cost of disposal at the County’s Waste-To-Energy plant increased.

Response: All rate adjustments are provided for in the Contract. Please see SECTION 5 page 4 of the attached Contract.

35. **Question:** On page 4 under Section II A – it states that the vendor must remove or add carts at no additional charge during seasonal times, which was made clear at the June 18 meeting. The follow up question we have is will the vendor be expected to reduce the overall monthly rate charged to the City during the seasonal times when residents leave the area? Simply will the rate paid to the vendor be reduced at any time during the term of the contract or will it always be based on 3,161 units per month?

Response: The rate will remain at a per unit basis based on the number of multi-family units within the City. The rate will not change based on recycling capacity provided. The number of multi-family units will change slightly with time due to development and other factors.

EXHIBIT A

**CONTRACT BETWEEN
THE CITY OF TREASURE ISLAND**

AND _____

**PERTAINING TO
MULTI- FAMILY AND COMMERCIAL RECYCLING SERVICES**

CONTRACT NUMBER CP-1718-15

This Contract is made and entered into on the _____ day of _____, 2018 (“**Effective Date**”), by and between the City of Treasure Island, a public body politic and municipal corporation organized and existing under the Laws of Florida whose address is: City of Treasure Island, 120 – 108th Avenue, Treasure Island, Florida, 33706 (“**CITY**”), and ___, FEIN, whose address is _____ (“**CONTRACTOR**”), collectively (the “Parties”) who hereby agree as follows:

WITNESSETH

WHEREAS, the CONTRACTOR has submitted a competitive bid for a Single Stream Recycling Services for multi-family residential and commercial customers, as set forth in the attached Contract Documents; and

WHEREAS, the City Commission of the City of Treasure Island has determined that there exists the need for Single Stream Recycling Services for multi-family residential and commercial customers in the City of Treasure Island; and

NOW THEREFORE, in consideration of the mutual benefits to the CITY and CONTRACTOR, the following covenants and contracts are set forth to which the parties hereto agree as follows:

SECTION 1. SCOPE OF WORK.

The Scope of Work/Service is specifically identified in Section II of ITB # 1718-15.

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SECTION 2. TERM.

The term of the initial contract commences on November 24, 2018 and expires on September 30, 2021. The term may be extended for up to two (2) two (2) year extensions at the CITY’S request.

SECTION 3. OBLIGATIONS OF THE CONTRACTOR.

Obligations of the CONTRACTOR include, but are not limited to, the following:

a. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the CITY, and does not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the CITY, or any property owned by the CITY. Such lien, attachment, or encumbrance, until it is removed, precludes any and all claims or demands for any payment expected by virtue of this Contract.

b. The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set forth in this Contract, when providing services for the CITY in accordance with the Contract terms.

c. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to properly and fully complete the work set forth in the Scope of Services.

d. The CONTRACTOR shall maintain an adequate and competent staff, and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the CITY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.

SECTION 4. STANDARD OF CARE.

a. The CONTRACTOR has represented to the CITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Contract, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill and the ability as any

other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner, consistent with the CITY'S stated Scope of Services and industry standards.

b. The CONTRACTOR covenants and agrees that it and its employees, agents, subcontractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

SECTION 5. COMPENSATION.

1. SERVICE CHARGES

a. Multi-family and Commercial Customer Recycling Services

i. Rate Schedule - The CONTRACTOR shall provide single stream recycling service to the CITY'S multi-family residences and commercial customers for the period from December 1, 2018 through September 30, 2021 for the pricing specified in the Bid Submission at Schedule A1.

The CONTRACTOR agrees, for the consideration provided for in this Contract, in the amount of \$____(total for all 2 years and 10 months) and at its own cost and expense, to do all the work and furnish all of the materials, equipment, supplies and labor necessary to carry out this Contract in the manner and to the full extent as set forth in this Contract, CITY Authorized Change Orders and any Addenda. The annual costs for each year remaining in the initial term will be the same monthly amount unless increased pursuant to Section 5. Compensation b (i) of this Contract.

b. The amount to be paid under this Contract is based on the prices supplied by the CONTRACTOR in the bid submittal. The CONTRACTOR agrees, for the consideration provided for in this Contract, a Not To Exceed Amount of \$_____ at its own cost and expense, to do all the work and furnish all of the materials, and labor necessary to carry out this Contract in the manner and to the full extent as set forth in the Scope of the attached bid. The CITY has at all time, full opportunity to inspect the materials to be furnished and the Work to be performed under this Contract.

i. Services Charges will be firm for a period of ten (10) months from the date of the

executed Contract. Thereafter, Service Charges may be increased annually for the life of the Contract, in an amount not to exceed the average of the Consumer Price Index (CPI) as published by the U.S. Department of Labor for all Urban Consumers, Series Id: CUUR000SA0, Not Seasonally Adjusted,(but not to exceed 3%): for the twelve months prior. It is the CONTRACTOR's responsibility to request any pricing increase under this provision. Notice of any pricing increase must be made six (6) months prior to the change taking effect. If no adjustment request is received from CONTRACTOR, then the CONTRACTOR has agreed to no annual increase for the following twelve months. Any pricing increase request received after the commencement of the annual period will not be considered.

2. Compensation for services completed by the CONTRACTOR will be paid in accordance with Section 218.70, Florida Statutes, and Florida's Prompt Payment Act.

3. Services to be performed in accordance with this Contract are subject to the annual appropriation of funds by the CITY. In its sole discretion, the CITY reserves the right to forgo use of the CONTRACTOR for any project which may fall within the Scope of Services listed in the Contract. In the event the CITY is not satisfied with the services provided by the CONTRACTOR, the CITY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem.

4. Force Majeure: Neither Party to this Contract will be liable for its failure to perform under the Contract due to any circumstances beyond its reasonable control such as an act of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONTRACTOR or CITY may suspend its performance under this Contract as a result of Force Majeure without being in default of the Contract, but upon removal of such Force Majeure the CONTRACTOR or CITY will resume its performance as soon as reasonably possible.

SECTION 6. TERMINATION.

The CITY may terminate this Contract by giving thirty (30) days written notice to CONTRACTOR prior to the effective date of such cancellation.

SECTION 7. PAYMENT WHEN SERVICES ARE TERMINATED.

a. In the event of termination of this Contract by the CITY, and not due to the fault of

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the CONTRACTOR, the CITY shall compensate the CONTRACTOR for all authorized services performed prior to the effective date of termination.

b. In the event of termination of this Contract due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the CITY shall compensate the CONTRACTOR for all authorized services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the CITY. All such payments will be subject to an offset for any damages incurred by the CITY resulting from any delay occasioned by early termination. This provision will in no way be construed as the sole remedy available to the CITY in the event of breach by the CONTRACTOR.

SECTION 8. INSURANCE.

The CONTRACTOR shall maintain such insurance as specified in Section IV General Conditions, Paragraph 32 of ITB No. 1718-15 to protect the CITY from any or all claims for property damage, personal injury, and bodily injury including death, which may arise from operations under this Contract. Certificates of such insurance must be provided to the CITY prior to the CITY issuing the Notice to Proceed to the CONTRACTOR and must also be subject to its approval for adequacy of protection. The CITY must be named as an additional insured under all policies.

SECTION 9. CITY OBLIGATIONS.

At the CONTRACTOR’S request, the CITY agrees to provide, at no cost, all pertinent information known to be available to the CITY to assist the CONTRACTOR in providing and performing the required services.

SECTION 10. DOCUMENTS CONSTITUTING ENTIRE CONTRACT.

The following documents are hereby incorporated and made part of this Contract:

1. Invitation to Bid Document, ITB No. 1718-15.
2. Bid submitted by CONTRACTOR on_____.

All exhibits may also be collectively referred to as the “Documents”. In the event of any conflict between the Documents or any ambiguity or missing specifications or instruction, the following priority is established:

- A. Specific direction from the City Manager (or designee).
- B. This Contract dated_____and any attachments.

- C. Invitation to Bid Document, ITB No. 1718-15.
- D. Bid submitted to the City of Treasure Island by CONTRACTOR on_____.

SECTION 11. APPLICABLE LAW, VENUE, JURY TRIAL.

The laws of the State of Florida will govern all aspects of this Contract. In the event it is necessary for either party to initiate legal action regarding this Contract, venue will lie in Pinellas County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Contract, which may be brought by either of the Parties.

SECTION 12. INDEPENDENT CONTRACTOR.

This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment on the manner and means of carrying out the CONTRACTOR'S activities and responsibilities.

SECTION 13. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services identified in this Contract.

SECTION 14. COMPLIANCE WITH ALL LAWS.

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and CITY, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Contract or are adopted at any time following the execution of this Contract.

SECTION 15. INDEMNIFICATION.

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Except for those expenses or liabilities arising from the negligence of the CITY, the CONTRACTOR hereby expressly agrees to indemnify and hold the CITY harmless against any and all expenses and liabilities arising out of the performance or default of this Contract as follows: CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, CITY and its officers, agents, employees, from and against any and all liability, claims, damages, losses, (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless, of whether the allegations are false, fraudulent, or groundless), and costs (including but not limited to reasonable attorney's fees, litigation, arbitration, mediation, appeal expenses) which in whole or in part (whether concurring or contributory) are caused by the negligence (whether active or passive), recklessness, or intentional wrongful misconduct, or other fault of the CONTRACTOR or the CONTRACTOR's officers, agents, subcontractors, representatives, volunteers or the like, arising out of or in connection with, directly or indirectly, the Contract. Indemnification, defense, and hold harmless actions will not be limited by any insurance amounts required under the Contract. This provision will survive termination of the Contract.

SECTION 16. SOVEREIGN IMMUNITY.

The CITY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Contract to the contrary, which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the CITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, must not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Contract will inure to the benefit of any third party for the purpose of allowing any claim against the CITY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 17. BANKRUPTCY OR INSOLVENCY.

If the CONTRACTOR files a Petition in Bankruptcy, or if the same is adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONTRACTOR is appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment for the benefit of creditors, or proceedings are commenced on or against the

CONTRACTOR'S operations of the premises, the CITY may terminate this Contract immediately notwithstanding the notice requirements of Section 6 TERMINATION..

SECTION 18. BINDING EFFECT.

This Contract is binding upon and insure the benefit of the parties hereto, their heirs, personal representatives, successors, and/or assigns.

SECTION 19. ASSIGNMENT.

This Contract is only assignable by the CONTRACTOR upon the express written consent of the CITY.

SECTION 20. SEVERABILITY.

All clauses found in this Contract act independently of each other. If a clause is found to be illegal or unenforceable, it has no effect on any other provision of this Contract. It is understood by the parties that if any part, term, or provision of this Contract is by the courts held to be illegal or in conflict with any law of the State of Florida, or the United States, the validity of the remaining portions or provisions of this Contract will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular part, term, or provision held to be invalid.

SECTION 21. WAIVER.

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions, of this Contract, or to exercise any right or option contained in this Contract will not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but the Contract will remain in full force and effect.

SECTION 22. MODIFICATION.

The covenants, terms, and provisions of this Contract may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Contract and any written Amendment(s) hereto, the provisions of the latest executed instrument will take precedence.

SECTION 23. HEADINGS.

All headings of the sections, exhibits, and attachments contained in this Contract are for the purpose of convenience only and will not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.

SECTION 24. ADMINISTRATIVE PROVISIONS.

In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Contract, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the CITY'S internal purposes only, and any and all terms, provisions, and conditions contained in the Contract, whether printed or written, will in no way modify the covenants, terms, and provisions of this Contract and have no force or effect on the Contract.

SECTION 25. CONFLICT OF INTEREST.

The CONTRACTOR warrants that the CONTRACTOR has not employed or any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that the CONTRACTOR 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. For the breach or violation of this Paragraph, the CITY has the right to terminate this Contract immediately, without liability and without regard to the notice requirements of Section 6 TERMINATION.

SECTION 26. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

In accordance with the State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Contract is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as-amended) is incorporated in the Contract by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the

employment eligibility of all new hires working in the United States, except if the CONTRACTOR may choose to verify only new hires assigned to the Contract; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Contract; and (4) include these requirement in certain subcontract, such

as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

SECTION 27. JOINT AUTHORSHIP.

This Contract will be construed as resulting from joint negotiation and authorship. No part of this Contract will be construed as the product of any one of the parties hereto.

SECTION 28. EQUAL OPPORTUNITY EMPLOYER.

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services specified in the Contract will comply with all equal opportunity employment laws.

SECTION 29. AUDITING, RECORDS, AND INSPECTIONS.

In the performance of this Contract, the CONTRACTOR must keep books, records, and accounts of all activities, related to the Contract, in compliance with generally accepted accounting procedures. Throughout the term of this Contract, books, records, and accounts related to the performance of this Contract must be open to inspection during regular business hours by an authorized representative of the CITY, and must be retained by the CONTRACTOR for a period of three years after termination or completion of the Contract, or until the full CITY audit is complete, whichever comes first. The CITY retains the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this Contract are subject to the applicable provisions of the Florida Public Records Act, Chapter 119, and Florida Statutes. The CITY also has the right to conduct an audit within sixty (60) days from the effective date of this Contract to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction of the CITY. The CITY has the right to terminate this Contract based upon its findings in this audit without regard to the termination provision set forth in the Contract.

SECTION 30. PUBLIC RECORDS.

The CONTRACTOR agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records under Florida law include, but are not limited to: records related to the entry, management and implementation of the Contract itself; emails/correspondence between the CITY and the CONTRACTOR related to the Contract; emails or correspondence from all other entities related to the contract (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and, all vendor invoices. The CONTRACTOR agrees, to the extent required by law, to:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the Contract;
- b. Provide the public with access to the public records under the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided for by law;
- c. Ensure that the public records that are exempt or confidential, and exempt from public record disclosure requirements, are not disclosed, except as authorized by law; and
- d. Meet all requirements for public records and transfer, at no cost, to the CITY, all public records in possession of the CONTRACTOR, upon termination or completion of the Contract and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the CONTRACTOR agrees that all records stored electronically will be provided to the CITY in a format that is compatible with the information technology systems of the CITY. The CONTRACTOR shall promptly provide the CITY with a copy of any request to inspect or copy public records that CONTRACTOR receives and a copy of the CONTRACTOR'S response to each request. The CONTRACTOR understands and agrees that failure to provide access to the public records is a material breach of the Contract and grounds for termination.

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, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

(727) 547-4575 ext.229, cityclerk@mytreasureisland.org, and City Hall, 120 108th Ave., Treasure Island, FL, 33706.

THE CONTRACTOR ACKNOWLEDGES THAT THE CITY OF TREASURE ISLAND CANNOT AND WILL NOT PROVIDE LEGAL OR BUSINESS ADVICE TO THE CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR ACKNOWLEDGES THAT IT WILL NOT RELY ON THE CITY OF TREASURE ISLAND OR ITS CITY ATTORNEY TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE AND THAT CONTRACTOR HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS CONTRACT.

SECTION 31. NOTICE

All notices required to be given to the CITY or CONTRACTOR pursuant to this Contract must be sent by (a) registered or certified mail, whereupon notice shall be deemed to have been given on the date of acceptance; or (b) delivery (i.e., courier or other hand delivery), overnight delivery, email or facsimile transmission, whereupon notice shall be deemed to have been given on the day of delivery or transmission. If the day of notice is a Saturday, Sunday, or legal holiday, notice shall be deemed to have been given on the first calendar day thereafter which is not a Saturday, Sunday, or legal holiday. All notices required to be given to the CITY must be made to the CITY at:

City of Treasure Island
Attention: Hal Bruce, Purchasing
Coordinator 120 – 108th Avenue
Treasure Island, Florida 33706
Phone: (727)-547-4575
Fax: (727)-547-4582
hbruce@mytreasureisland.org

Or to such other address or facsimile number as the CITY may direct from time to time by written notice forwarded to the CONTRACTOR as provided above.

All notices required to be given to CONTRACTOR pursuant to this Contract must be sent to CONTRACTOR at:

Company:

Attention:

Address:

Phone:

Fax:

Email:

or to such address or facsimile number as the CONTRACTOR may direct from time to time by written notice forwarded to the CITY as provided above. E-mail transmittal of notices are considered delivered as of the date of electronic transmission. Both parties will supplement emailed notices with a formal version of the notice as outlined above.

SECTION 32. MISCELLANEOUS.

1. CONTRACTOR has been made aware of the Florida Public Entity Crimes Act, Section 287.133, Florida Statutes, and the CITY'S requirement that the CONTRACTOR has complied with it in all respects prior to and will comply with it in all respects during the term of this Contract.

2. CONTRACTOR and any Subcontractors understand and will comply with Section 22.055(5) of the Florida Statutes and thereby agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to said Section 22.055(5) of the Florida Statutes.

3. The Parties represent and warrant that they have entered into this Contract relying wholly upon their own judgment, belief and knowledge of the nature, extent, effect and duration of any actions, damages and liability therefore. The Parties represent that they enter into this Contract without relying upon any statement or representation of the adverse parties other than what has been set forth in writing in this Contract. The Parties represent that they have had the opportunity to discuss this matter with counsel of their choosing and are satisfied with its counsel and the advice received. The Parties understand this Contract's contents and agree that this Contract will not be

construed more strongly against any party hereto, regardless of who is responsible for its preparation or drafting. The Parties further declare and represent that no promise, inducement, agreement or understanding not expressed in the Contract has been made to an adverse party and that the terms of this Contract are contractual and not a mere recital. This Contract will be treated as drafted jointly by all the Parties, and no term, condition or provision of this Contract will be construed more strictly against any Party.

4. All words used in this Contract in the singular extend to and include the plural, and the use of any gender shall extend to and include all genders. The term "including" is not limiting. The captions and headings in the CONTRACT are for convenience of reference only and in no way define or limit the scope or content of this Contract or in any way affect its provisions.

5. Each of the Parties hereto covenants to the other party hereto that it has lawful authority to enter into this Contract, that the governing or managing body of each of the Parties has approved this Contract and that the governing or managing body of each of the Parties has authorized the execution of this Contract in the manner set forth in the Contract.

6. This Contract must be executed by the respective dully authorized officials, and takes effect November 24, 2018.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the CITY and CONTRACTOR have signed this Contract.

CITY OF TREASURE ISLAND

Attest:

By:

City Clerk

City Manager

Approved as to form:

City Attorney

CONTRACTOR

Witnesses:

By: _____

Name: _____

Title: _____