

# City of Palm Coast, Florida Agenda Item

**Agenda Date:** August 15, 2023

<b>Department</b>	CONSTRUCTION MANAGEMENT & ENGINEERING	<b>Amount</b>	\$9,238,139.00
<b>Division</b>	ENGINEERING	<b>Account #</b>	54205509-063000-99026

**Subject:** RESOLUTION 2023-XX APPROVING A CONTRACT WITH CUSTOM BUILT MARINE CONSTRUCTION, INC, A WORK ORDER WITH DRMP, INC., FOR CONSTRUCTION INSPECTION SERVICES(CEI), AND A PROJECT CONTINGENCY FOR THE CONSTRUCTION OF LONDON WATERWAY EXPANSION PROJECT

**Presenter:** Carmelo Morales, Stormwater Engineer

- Attachments:**
1. Presentation
  2. Resolution
  3. Contract (Draft Construction)
  4. Contract (Draft CEI)
  5. Notice of Intent to Award (Construction & CEI)
  6. Executive Summary (Construction & CEI)
  7. CEI Proposal

**Background:**

**Council Priority:**  
**D. Sustainable Environment and Infrastructure**

To remain consistent with the City’s Stormwater Master Plan and to address drainage related issues, the City wishes to expand the stormwater attenuation and treatment capacity of the London Waterway. The project objective is to provide flood storage to reduce peak elevations in the London Waterway, improve water quality in receiving waters with stormwater treatment, and enhance the environment to support native fauna and flora, deliver an aesthetic project. The project consists of construction of a 1-acre lake along with a corresponding storm sewer for inflow and outflow structures and 4.2 acres of littoral zone.

On March 16, 2022, council approved a work order with DRMP, Inc., for engineering design services for the London Waterway Expansion Project.

The project was originally estimated to cost approximately \$4M. On October 19, 2022, staff advertised this project (ITB-SWE-22-73) and received bids of \$9M. The project was placed on hold until it could be funded.

On November 8, 2022, council approved a cost-share agreement (contract#37938) with the

St. Johns River Water Management District (SJRWMD) in the amount of \$904,500, toward the estimated cost of construction \$3,618,000.

The American Rescue Plan Act (ARPA) will fund a portion of this project in the amount of \$6,128,471. Under this Act, funds may be used to make necessary improvements to water and sewer infrastructure.

On March 1, 2023, staff advertised a request for qualifications (RFSQ-SWE-23-32) for engineering services CEI services for the London Waterway Expansion. Staff negotiated a scope and fee not-to-exceed \$300,000 with DRMP, Inc. City staff has determined that the costs for these services are reasonable and fair and are consistent with these types of services for a project of this size and scope.

On May 17, 2023, staff advertised this project (ITB-SWE-23-43) and received two (2) bids. City staff recommends awarding the contract to the low bidder Custom Built Construction, Inc., of Fort Pierce, FL for \$8,236,193.73.

This item is to approve the Contract with Custom Built Construction, Inc., in the amount of \$8,236,193.73, a contract with DRMP, Inc., for CEI services in a not-to-exceed amount of \$300,000, and a Project contingency in the amount of \$701,945.27. Funds for this project are budgeted in the 5 yr. Capital Improvement Budget.

**SOURCE OF FUNDS WORKSHEET FY 2024**

London Waterway Expansion 54205509-063000-99026	\$2,169,668.00
Total Expended/Encumbered to Date	\$0.00
Pending Work Orders/Contracts	\$0.00
Current (WO/Contract)	<u>\$2,169,668.00</u>
<b>Balance</b>	<b>\$0.00</b>

**SOURCE OF FUNDS WORKSHEET FY 2024**

ARPA 54205509-063000-99026	\$6,128,471.00
Total Expended/Encumbered to Date	\$0.00
Pending Work Orders/Contracts	\$0.00
Current (WO/Contract)	<u>\$6,128,471.00</u>
<b>Balance</b>	<b>\$0.00</b>

**SOURCE OF FUNDS WORKSHEET FY 2024**

FWC/SJRWMD 54205509-063000-99026	\$940,000.00
Total Expended/Encumbered to Date	\$0.00
Pending Work Orders/Contracts	\$0.00
Current (WO/Contract)	<u>\$940,000.00</u>
<b>Balance</b>	<b>\$0.00</b>

**Recommended Action:**

**ADOPT RESOLUTION 2023-XX APPROVING A CONTRACT WITH CUSTOME BUILT MARINE CONSTRUCTION, INC, A WORK ORDER WITH DRMP, INC., FOR CONSTRUCTION INSPECTION SERVICES(CEI), AND A PROJECT CONTINGENCY FOR THE CONSTRUCTION OF LONDON WATERWAY EXPANSION PROJECT**



# London Waterway Expansion – Increased Canal Capacity & Improved Water Quality

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## Project Background

- Identified as an impactful project on the Stormwater Master Plan
- Two public community meetings hosted by City Stormwater staff allowed residents to provide feedback to project layout.





## Purpose

- Increase flood protection to properties neighboring the London Waterway
- Provide Stormwater treatment to improve water quality
- Enhance the environment to support native fauna and flora of the area
- Provide an aesthetic element with a passive park for immediate neighbors
  - Boardwalks
  - Two Overlook Pavilions with Benches
  - Littoral (Aquatic) Plantings at water's edge



## Consultant Selection

### Construction

- Intent to Bid (ITB) issued October 19, 2022
  - Zero bids received
- ITB issued for second time on February 15, 2023
  - One bid received nearly \$5M over Engineer Estimate
- ITB issued for third time on May 17, 2023
  - Two bids received with low bidder at \$8,236,193.73
  - Notice of intent to awarded issued to Custom Built Marine Construction, Inc. on July 7, 2023

### Construction Engineering & Inspection

- RFSQ issued March 1, 2023
  - One bid received from DRMP, Inc.
  - Plan to award contract to DRMP, Inc., with Council approval



## Stormwater Management Fund

### FY24 Budgeting

• Stormwater Fund	\$2,104,184
• SJRWMD Construction Grant (Council Approved)	\$ 904,500
• ARPA Funds	\$6,193,955
• FWC Grant (Pending)	<u>\$ 35,500</u>
• <b>Total FY24 Budgeted Amount</b>	<b>\$9,238,139</b>

Staff recommends approval of the following:

- Construction Engineering Inspections Contract to DRMP Inc. in the amount of \$299,369.00;
- Construction Contract to Custom Built Marine Construction Inc. in the amount of \$8,236,193.73;
- And Project Contingency in the amount of \$702,576.27



Questions?

**RESOLUTION 2023 - \_\_\_\_\_  
LONDON WATERWAY EXPANSION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING A CONTRACT WITH CUSTOM BUILT MARINE CONSTRUCTION, INC., A WORK ORDER WITH DRMP INC., FOR CONSTRUCTION ENGINEERING INSPECTION SERVICES (CEI) AND A PROJECT CONTINGENCY FOR THE CONSTRUCTION OF THE LONDON WATERWAY EXPANSION PROJECT: PROVIDING AUTHORIZATION TO EXECUTE; PROVIDING FOR FUTURE AMENDMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Custom Built Marine Construction, Inc., desires to construct the London Waterway Expansion Project; and

**WHEREAS**, DRMP, Inc., desires to provide construction engineering inspection services for the above-mentioned project; and

**WHEREAS**, the City Council of the City of Palm Coast desires to approve the above-mentioned services for the City of Palm Coast.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.** The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

**SECTION 2. APPROVAL OF WORK ORDER.** The City Council of the City of Palm Coast hereby approves the terms and conditions of a contract with Custom Built Marine Construction, Inc., a work order with DMRP, Inc., for engineering inspection services, and a project contingency for the London Waterway Project as attached hereto and incorporated herein by references as Exhibit “A.”

**SECTION 3. AUTHORIZATION TO EXECUTE.** The City Manager, or designee, is hereby authorized to execute the necessary documents.

**SECTION 4. FUTURE AMENDMENTS.** The City Manager, or designee is hereby authorized to approve any future amendments to the Master Services Agreement in accordance

with the limits as set forth in Chapter 2, Division 3 Purchases and Contractual Services relating to the purchase approved by this Resolution.

**SECTION 5. SEVERABILITY.** If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

**SECTION 6. CONFLICTS.** All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

**SECTION 7. IMPLEMENTING ACTIONS.** The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

**SECTION 8. EFFECTIVE DATE.** This Resolution shall take effect immediately upon adoption by the City Council.

**DULY PASSED AND ADOPTED** by the City Council of the City of Palm Coast, Florida, on this 15<sup>th</sup> day of August 2023.

ATTEST:

CITY OF PALM COAST

\_\_\_\_\_  
KALEY COOK, CITY CLERK

\_\_\_\_\_  
DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
NEYSA BORKERT, CITY ATTORNEY

Attachments: Exhibit A- Draft Contract - Custom Built Marine Construction, Inc.  
Draft Work Order - DRMP, Inc.



## CONSTRUCTION CONTRACT

**THIS CONSTRUCTION CONTRACT** is dated as of the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between CUSTOM BUILT MARINE CONSTRUCTION, INC., duly authorized to conduct business in the State of Florida, whose address is 3119 Hammond Road, Fort Pierce, Florida 34946, hereinafter called the "CONTRACTOR", and THE CITY OF PALM COAST, a political subdivision of the State of Florida, whose address is 160 Lake Avenue, Palm Coast, Florida 32164, hereinafter called the "CITY". CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### WITNESSETH:

**Section 1. Work.** CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Expand the Stormwater attenuation and treatment capacity of the London Waterway by construction of a lake on City-owned property that is adjacent to the London Canal, in accordance with the construction plans. Provide all work required for a completed project including, but not limited to labor, supervision, traffic control, materials, equipment, installation, and incidentals required for a complete project. CONTRACTOR shall also provide material samples, as necessary, to ensure compliance with manufacturer's recommendations. Installation of all materials shall be in accordance with all applicable CITY standards and requirements, applicable Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction (latest edition), manufacturer and industry preferred standards.

The Project for which the Work under the Contract Documents is a part is identified as:

### LONDON WATERWAY EXPANSION, ITB-SWE-23-43

### Section 2. Engineer.

(a) ENGINEER OF RECORD as named in the Contract Documents shall mean DRMP, Inc.

(b) Construction Engineering "CE" (post design services) is the CITY's Engineer or the CITY's contracted consultant for construction engineering services. According to the Contract Documents, "CE" shall mean City of Palm Coast.

### Section 3. Contract Time.

(a) All provisions regarding Contract Time are essential to the performance of this Contract.

(b) The Work shall be substantially completed as described in subsection 14.13 of the General Conditions, within **three-hundred sixty (360) calendar days** calendar days beginning on the date of commencement as provided in subsection 2.2 of the General Conditions. The Work shall be finally completed, ready for Final Payment in

accordance with subsection 14.9 of the General Conditions, within **forty-five (45) calendar days** after the actual date of Substantial Completion.

(c) 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.

(d) Float time is allocated specifically to the CONTRACTOR's responsibility for coordination of utility relocations by subsection 12.1.1.1.3 of the General Conditions is included in the Contract Time provided by this Section. The CITY will not consider any Contract Time extensions related to utility coordination matters including, but not limited to, utility relocations and conflicts, unless the utility relocation delays exceed the float time allowed by subsection 12.1.1.1.3 and also extend the Project Schedule's Critical Path.

(e) In the event that the Work requires phased construction, then multiple points of Substantial Completion may be established in the Supplementary Conditions.

#### **Section 4. Contract Price.**

(a) CITY shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents on the basis of the Total Bid (original Contract Price). The CONTRACTOR's total compensation is **EIGHT MILLION, TWO-HUNDRED THIRTY-SIX THOUSAND, ONE-HUNDRED NINETY-THREE DOLLARS and 73/100 (\$8,236,193.73)** subject only to increases or decreases made in strict conformance with the Contract Documents.

(b) CONTRACTOR agrees to accept the Contract Price as full compensation for doing all Work, furnishing all Materials, and performing all Work embraced in the Contract Documents; for all loss or damage arising out of performance of the Work and from the action of the elements or from any unforeseen or unknown difficulties or obstructions which may arise or be encountered in the prosecution of the Work until the Final Acceptance; and for all risks of every description connected with the Work.

(c) The CONTRACTOR acknowledges that CONTRACTOR studied, considered, and included in CONTRACTOR's Total Bid (original Contract Price) all costs of any nature relating to: (1) performance of the Work under Central 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, direct purchase of materials and no damage for delay provisions of the Contract Documents.

(d) 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 with its own forces, the work of other utility contractors and the work of others at the Project site.

#### **Section 5. Payment Procedures.**

(a) CONTRACTOR shall submit Applications for Payment in accordance with Section 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions. In the event an ENGINEER is not being utilized, Applications for Payment shall be forwarded to the CITY's Finance Accounts Payable Department.

(b) Progress Payments. CITY shall make progress payments on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, in accordance with Section 14 of the General Conditions.

(c) Final Payment. Upon Final Completion and acceptance of the Work in accordance with subsection 14.9.1 of the General Conditions, CITY shall pay the remainder of the Contract Price as provided in subsection 14.9.1

#### **Section 6. Retainage and Withholding Payment for Breach**

(a) Retainage under the Contract Documents is held as collateral security to secure completion of the Work.

(b) CITY may withhold payment equal to the product of the number of Days after Substantial Completion and the amount of liquidated damages set forth in Section 9 of this Contract for CONTRACTOR's material breach of contract where CONTRACTOR is behind schedule for Substantial Completion, and it is anticipated by CITY that the Work will not be completed within the Contract Time for Substantial Completion. The City may, at the CITY'S discretion, withhold the liquidated damage amount from subsequent Progress Payments. Any withheld payments held under this subsection shall be released to CONTRACTOR in the next Progress Payment following the ENGINEER's approval of a supplemental Progress Schedule demonstrating that the requisite progress will be regained and maintained as required by subsection 6.19.2 of the General Conditions.

**Section 7. Contractor's Representations.** In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

(a) CONTRACTOR has familiarized themselves with the nature and extent of the Contract Documents, Work, locality, weather, Purchasing and Contracts Procedures, and with all local conditions and federal, state and local laws, utility locations, ordinances, rules, policies and regulations that in any manner may affect cost, progress or performance of the Work.

(b) CONTRACTOR has studied carefully and considered in its Bid all reports of investigations and tests of subsurface and physical conditions of the site affecting cost, progress, scheduling, or performance of the Work.

(c) CONTRACTOR has studied carefully and considered in its Bid the Plans and Specifications, performed necessary observations, examinations, and studied the physical conditions at the site related to Underground Facilities, utility installations, conflicts, re-locations (temporary and permanent) and all other Underground Facilities and utility related conditions of the Work and site that may affect cost, progress, scheduling, or any aspect of performance of the Work and that its Bid reflects all such conditions. CONTRACTOR, by submitting its Bid and executing this Contract acknowledges the constructability of the Work under the Plans and Specifications. CONTRACTOR by its study, excludes and releases the CITY from any implied warranties including but not limited to, those arising under the "Spearin Doctrine", that the Plans and Specifications are adequate to perform the Work.

(d) CONTRACTOR has made or caused to be made examinations, investigations and tests and studies as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

(e) CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.

(f) CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

(g) The CONTRACTOR declares and agrees that the approval or acceptance of any part of the Work or Material by the CITY, ENGINEER or any agent relating to compliance with the Contract Documents shall not operate as a waiver by the CITY of strict compliance with the terms and conditions of the Contract Documents.

(h) The CONTRACTOR declares and agrees that the CITY may require them to repair, replace, restore or make all things comply with the Contract Documents including all Work or Materials which within a period of two (2) years from Acceptance by CITY are found to be Defective or fail in any way to comply with the Contract Documents. The CONTRACTOR acknowledges that the above two (2) years repair, replace and restoration period is separate from and additional to CONTRACTOR's warranty that the Work has been completed in compliance with the Contract Documents. The two (2) years repair, replace and restoration period is not a limitation upon CONTRACTOR's other warranties, Right-of-Way Permit Bond and/or Material and Workmanship Bond.

(i) The CONTRACTOR's resident Superintendent at the Work site shall be: \_\_\_\_\_ and this Superintendent only shall be utilized by the CONTRACTOR unless otherwise approved by the CITY Project Manager and following the procedure indicated in the General Conditions.

(j) CONTRACTOR has studied carefully and considered all permit requirements related to performance of the Work. CONTRACTOR declares and agrees that all costs related to performing the Work in compliance with the requirements of all permits at the Contract Price are included in the Contract Price. CONTRACTOR agrees that CONTRACTOR shall be solely responsible for payment of all fines and penalties of any nature assessed to the CONTRACTOR or CITY or both by any governmental entity, district, authority or other jurisdictional entity relating to all permits required for performance of the Work.

(k) CONTRACTOR acknowledges that the performance of the Work under the Contract Documents fulfills a CITY, CONTRACTOR, and public purpose. To that end, CONTRACTOR agrees to respond to citizen complaints related to alleged damage caused by CONTRACTOR's performance of the Work within two (2) days of receipt of the complaint from citizens, ENGINEER, or the CITY. The CONTRACTOR shall utilize the "Report of Unsatisfactory Materials and/or Service" form to respond separately to each complaint. When a complaint is brought to the CONTRACTOR by a citizen, the CONTRACTOR shall identify the citizen and street address in the "Statement of Problem". Responses and action taken by the CONTRACTOR shall specifically identify the problem specific actions taken. Generic statements such as "addressed the problem" are unacceptable. If the CONTRACTOR fails to respond within two (2) days, then the CITY may take corrective action and deduct the actual costs of corrective action from subsequent Progress Payments or the retainage.

(l) CONTRACTOR acknowledges that the CITY owned property obtained for performance of the Work within the project limits includes temporary construction easements. In the event that the CONTRACTOR fails to perform the Work within the Contract Time, then CONTRACTOR shall be solely responsible for payment of all costs for additional or extended temporary construction easements. The CONTRACTOR authorizes the CITY to deduct the actual costs of additional or extended temporary construction easements from subsequent Progress Payments or the retainage.



**Section 8. Contract Documents.** The Contract Documents which comprise the entire agreement between CITY and CONTRACTOR are made a part hereof and consist of the following:

- (a) This Contract.
- (b) Addenda.
- (c) Bid.
- (d) American With Disabilities Act Affidavit.
- (e) Performance Bond.
- (f) Payment Bond.
- (g) Material and Workmanship Bond and/or Right-of-Way Permit Bond
- (h) Specifications.
- (i) Technical Specifications Provided in these Contract Documents
- (j) General Conditions.
- (k) Supplementary Conditions including any utility specific forms provided by the CITY's Utility Division.
- (l) Notice To Proceed.
- (m) Change Orders.
- (n) Certificate of Substantial Completion.
- (o) Certificate of Final Inspection and Completion
- (p) Certificate of Engineer.
- (q) CONTRACTOR's Release.
- (r) Drawings and Plans.
- (s) Supplemental Agreements.
- (t) CONTRACTOR's Waiver of Lien (Partial)
- (u) CONTRACTOR's Waiver of Lien (Final and Complete)
- (v) Subcontractor/Vendor's Waiver of Lien (Final and Complete)
- (w) Consent of Surety to Final Payment
- (x) Instructions to Bidders
- (y) CONTRACTOR's Insurance Requirements, Certificate and Insurance Policies

There are no Contract Documents other than those listed above in this Section 8. The Contract Documents may only be altered, amended or repealed by a modification as provided in the General Conditions.

**Section 9. Liquidated Damages.**

(a) The CITY and CONTRACTOR recognize that time is essential to the performance of this Contract and CONTRACTOR recognizes that the CITY and its traveling public will suffer financial loss if the Work is not substantially completed as described in subsection 14.13 of the General Conditions within the time specified below, plus any extensions thereof allowed in accordance with Section 12 of the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or alternative dispute resolution proceeding the damages resulting from inconvenience to the traveling public including traffic loading, intersection operations, costs for time, costs of fuel and costs for some environmental impacts (excluding actual delay damages which may include, but are not limited to, engineering fees and inspection costs) suffered by the CITY if the Work is not completed on time. Accordingly, CONTRACTOR and CONTRACTOR's Surety agree to pay CITY as liquidated damages, and not as a penalty, **ONE THOUSAND and No/100 DOLLARS (\$1000.00)** per Day for each Day

CONTRACTOR exceeds the Contract Time for Substantial Completion until the Work is Substantially Complete. It is agreed that if this Work is not Finally Completed in accordance with the Contract Documents, the CONTRACTOR shall pay the CITY as liquidated damages for delay, and not as a penalty, one-fourth (1/4) of the rate set forth above.

(b) The CONTRACTOR shall pay or reimburse, in addition to the liquidated damages specified herein, the CITY's actual damages which may include but are not limited to expenses for engineering fees and inspection costs arising from CONTRACTOR's failure in meeting either or both the Substantial Completion and Final Completion dates.

(c) The liquidated damages provided in this Section are intended to apply even if CONTRACTOR is terminated, in default, or if the CONTRACTOR has abandoned the Work.

**Section 10. Miscellaneous.**

(a) Terms used in this Contract which are defined in Section 1 of the General Conditions shall have the meanings indicated in the General Conditions.

(b) No assignments by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound and any such assignment shall be void and of no effect; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

(c) CITY and CONTRACTOR each binds themselves, their partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

**Section 11. Contractor's Specific Consideration.** In consideration of the CONTRACTOR's indemnity agreements as set out in the Contract Documents, CITY specifically agrees to pay the CONTRACTOR the sum of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) or ONE PERCENT (1%) OF THE CONTRACT SUM WHICHEVER IS GREATER. The CONTRACTOR acknowledges receipt of the specific consideration for CONTRACTOR's indemnification of CITY and that the specific consideration is included in the original Contract Price allocated by CONTRACTOR among all pay items - receipt of which is acknowledged.

**Section 12. Notices.** Whenever either party desires to give notice unto the other including, but not limited to, Contract Claims, it must be given by written notice, hand delivered, signed and dated for receipt or sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

**TO CONTRACTOR:**  
Robert Belasic  
Custom Built Marine Construction, Inc.  
3119 Hammond Road  
Fort Pierce, FL 34946

**TO CITY:**  
City Manager  
City of Palm Coast  
160 Lake Avenue  
Palm Coast, FL 32164

**Section 13. Conflict of Interest.**

(a) The CONTRACTOR agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the CITY or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government and the CITY's Personnel Policies.

(b) The CONTRACTOR hereby certifies that no officer, agent or employee of the CITY has any material interest (as defined in Section 112.312 (15), Florida Statutes, as over five percent (5%) either directly or indirectly, in the business of the CONTRACTOR to be conducted here, and that no such person shall have any such interest at any time during the term of this Contract.

(c) Pursuant to Section 216.347, Florida Statutes, the CONTRACTOR hereby agrees that monies received from the CITY pursuant to this Contract will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

#### **Section 14. Material Breaches of Contract.**

(a) The parties recognize that breaches of the Contract Documents may occur and that remedies for those breaches may be pursued under the Contract Documents. The parties further recognize that the safety of the traveling public is of paramount concern. Therefore, the parties agree that any breach of the Contract Documents related to life safety, including but not limited to, the maintenance of traffic requirements of the Contract Documents, shall be considered a material breach of the Contract Documents.

(b) Upon a material breach of the Contract Documents related to life safety, as determined by ENGINEER, the ENGINEER shall issue a stop work order suspending the Work or any specific portion of the Work until the conditions are corrected. If the life safety conditions giving rise to the stop work order are not corrected within a reasonable time, as determined by ENGINEER, then the material breach shall entitle CITY to terminate this Contract. The recognition of breaches of the provisions of the Contract Documents related to life safety as material breaches shall not be construed as a limitation on other remedies for breaches or material breaches of the Contract Documents.

#### **Section 15. E-Verify Registration and Use**

(a) Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, CONTRACTOR shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all CONTRACTOR employees hired on and after January 1, 2021.

(b) Subcontractors

(i) CONTRACTOR shall also require all subcontractors performing work under this Contract to use the E-Verify system for any employees it may hire during the term of this Contract.

(ii) CONTRACTOR shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.

(iii) CONTRACTOR shall maintain a copy of all subcontractor affidavits for the duration of this Contract and provide it to CITY upon request.

(c) CONTRACTOR must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from CONTRACTOR stating all employees hired on and after January 1, 2021

have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system.

(d) Failure to comply with this provision is a material breach of this Contract, and shall result in the immediate termination of this Contract without penalty to CTIY. CONTRACTOR shall be liable for all costs incurred by CITY to secure a replacement contract, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable.

**IN WITNESS WHEREOF**, the parties hereto have signed this Contract. All portions of the Contract Documents have been signed or identified by the CITY and the CONTRACTOR.

**CITY OF PALM COAST**

**CUSTOM BUILT MARINE CONSTRUCTION, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Authorized Signatory

Name: Denise Bevan

Name: \_\_\_\_\_

Title: City Manager

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**MASTER SERVICES AGREEMENT**  
**(Professional Services)**

**THIS MASTER SERVICES AGREEMENT** ("Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date"), between DRMP, INC. whose primary place of business is 941 Lake Baldwin Lane, Orlando, Florida 32814 ("SUPPLIER") and the CITY OF PALM COAST, a municipal corporation of the State of Florida, holding tax exempt status, whose address is 160 Lake Avenue, Palm Coast, Florida 32164, ("CITY"). CITY and SUPPLIER are collectively referred to herein as "Parties".

**WITNESSETH:**

**WHEREAS**, CITY desires to procure **CEI Services for the London Waterway Expansion Project** from a competent and qualified supplier and has conducted a formal Request for Statement of Qualifications # RFSQ-SWE-23-32 (RFSQ) requesting bids/quotes for the services; and

**WHEREAS**, SUPPLIER is in the business of providing said services, is competent and qualified to provide said services to CITY, responded to the RFSQ and desires to render said services to CITY in accordance with the terms and conditions stated herein;

**NOW, THEREFORE**, in consideration of the mutual understandings and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, CITY and SUPPLIER agree as follows:

**1. SUPPLY OF SERVICES:**

**A. Work Order/Services.** This Agreement standing alone does not authorize performance of Services or require CITY to place any orders. During the term of this Agreement, subject to the terms of a work order ("Work Order"), attached to this Agreement as Exhibit A agreed to by CITY and SUPPLIER, SUPPLIER shall provide the services, including any deliverables ("Services"), set forth in such Work Order. At a minimum, each Work Order will set forth a brief project description, the specific tasks, activities and deliverables to be performed, a timeline for performance and completion, a budget, and a payment schedule, with milestone payments where applicable. Each Work Order must be executed by the Parties prior to the commencement of Services thereunder. SUPPLIER shall use its best efforts to provide Services to CITY as described herein; to keep CITY advised of the progress of the work; to provide CITY with such reports, presentations, charts, graphs, and the like as are appropriate to the nature of the services to be performed hereunder; and to maintain complete files and records of all Services provided. Execution of a Work Order shall be an affirmative and irrefutable representation by SUPPLIER to CITY that SUPPLIER is fully familiar with any and all requisite work conditions related to the provisions of the services.

**B. Quality of Services.** SUPPLIER shall make no claim for additional time or money based upon its failure to comply with this AGREEMENT. SUPPLIER has informed CITY, and hereby represents to CITY, that it has extensive experience in performing and providing the services described in this AGREEMENT, and that it is well acquainted with the components that are properly and customarily included within such Services and the requirements of laws, ordinances, rules, regulations, or orders of any public authority or licensing entity having jurisdiction over CITY Projects. SUPPLIER shall diligently and in a professional and timely manner perform and provide the Services included in each Work Order. All Services to be provided shall in the minimum be in conformance with commonly accepted industry and professional codes and standards, standards of CITY, and the laws of any Federal, State, or local regulatory agencies. SUPPLIER shall be responsible for keeping apprised of any changing laws applicable to the services to be performed under this Agreement. SUPPLIER shall be responsible for the professional quality, accepted standards, technical accuracy and the coordination of all services furnished by SUPPLIER under this Agreement, as well as the conduct of its staff, personnel, employees, and agents. SUPPLIER shall work closely with the CITY on all aspects of the provision of the services. SUPPLIER shall be responsible for the professional quality, technical accuracy, competence, methodology, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by SUPPLIER under this Agreement. SUPPLIER shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature

**C. Schedule/Delivery.** Time is of the essence in the performance of this Agreement and any Work Order hereunder. SUPPLIER shall begin performing services upon execution by both Parties of the Work Order and written notification to proceed by CITY. SUPPLIER and CITY agree to make every effort to adhere to the schedules as described in each

Work Order. However, if SUPPLIER is delayed at any time in the provision of services by any act or omission of CITY or by any other supplier employed by CITY, the time of completion shall be extended for such reasonable time as the CITY may decide in its sole and absolute discretion. If SUPPLIER'S performance is affected by any event beyond its reasonable control, including fire, explosion, flood, or other acts of God; war, terrorist acts or civil commotion; strike, lock-out or labor disturbances; or failure of public utilities or common carriers, SUPPLIER shall not be liable in connection with this Agreement to the extent affected by such force majeure event; provided that SUPPLIER gives CITY immediate written notice of the force majeure event and exercises all reasonable efforts to eliminate the effects of the force majeure event on its performance as soon as and to the extent practicable. It is further expressly understood and agreed that SUPPLIER shall not be entitled to any damages or compensation, or be reimbursed for any losses, on account of any delay or delays resulting from any of the aforesaid causes or any other cause whatsoever.

- D. Change Orders.** No changes to a Work Order shall be made without the prior written approval of the Parties. The agreed upon changes shall be detailed in a Change Order. Each Change Order shall include a schedule of completion for the services authorized. Change Orders shall identify this Agreement and the appropriate Work Order number. Change Orders may contain additional instructions or provisions specific to the services to be provided. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement. Execution of any Change Order shall constitute a final settlement and a full accord and satisfaction of all matters relating to the change including but not limited to scope, costs and adjustments to the schedule.
- E. Supplier Designated Representative/Key Personnel.** SUPPLIER shall furnish a SUPPLIER Designated Representative to administer, review, and coordinate the provision of services under this Agreement and each Work Order. Upon request by CITY, SUPPLIER shall submit to CITY detailed resumes of key professional personnel that will be involved in performing services described in the Work Order. CITY hereby acknowledges its acceptance of such personnel to perform services under this Agreement. If, at any time, SUPPLIER desires to change key professional personnel in an active assignment, it shall submit the qualifications of the new professional personnel to CITY for prior approval. Key professional personnel shall include the principal-in-charge, project managers, and others interfacing with CITY personnel.
- F. Replacement of SUPPLIER Personnel.** CITY reserves the right to reject at any time for any lawful reason whatsoever any of SUPPLIER'S personnel assigned by SUPPLIER in connection with any Work Order. SUPPLIER shall as soon as possible thereafter provide a replacement satisfactory to CITY. In no event shall performance of the Services be delayed or shall CITY be charged for any time required for any replacement SUPPLIER'S personnel to be trained to provide or become familiarized with the Services, whether the replacement is requested by CITY or not.
- G. CITY Premises.** At all times while on CITY'S premises, SUPPLIER shall comply with all rules and regulations of CITY. SUPPLIER shall be responsible for its employees and agents while on CITY'S premises.
- H. Ownership of Deliverables.** All deliverables, including any analysis, reference data, presentations, inventions, computer models, survey data, plans and reports, or any other form of written instrument or document and ideas made or conceived by SUPPLIER that result from or in connection with or during the performances of Services for CITY and any proprietary rights thereto, shall be the property of CITY. SUPPLIER agrees to assign, and does hereby assign, to CITY all right, title and interest of whatsoever kind and nature in and to all Deliverables and related proprietary rights. SUPPLIER shall execute, acknowledge, and deliver to CITY all such further papers as may be necessary to enable CITY to own, register, publish or protect said Deliverables and related proprietary rights in any and all countries and to vest title to said Deliverables and related proprietary rights in CITY. SUPPLIER grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the SUPPLIER for the CITY under this Agreement.
- I. Acceptance Criteria.** For any milestone in which SUPPLIER submits a Deliverable, CITY shall have the right to review and test such deliverable for the functional requirements or acceptance criteria specified for such deliverable and shall notify SUPPLIER if there are any deficiencies. SUPPLIER shall use its best efforts to promptly cure any such deficiencies, and after completing any such cure, SUPPLIER shall resubmit the deliverable for review and testing as set forth above. Any applicable warranty period shall only commence after acceptance by CITY.

## **2. COMPENSATION:**

- A. Costs and Expenses.** Compensation to SUPPLIER for the services performed on each Work Order shall be as set forth in the Work Order/Change Order. CITY shall only reimburse SUPPLIER for out-of-pocket expenses such as gas, tolls, mileage, meals, etc., that are directly attributable to the performance of work under a Work Order and have been approved in writing in advance by an authorized representative of CITY.

- B. Invoicing.** Each Work Order shall be invoiced separately. As work progresses for services satisfactorily performed, SUPPLIER shall render to the CITY, at the close of each calendar month, an itemized detailed invoice properly dated, describing all services rendered, proper documentation of the cost of the services, the name and address of SUPPLIER, Work Order Number, Contract Number, the billing period, if applicable, and all other information required by this Agreement. SUPPLIER shall not send any invoices with respect to Services, and no claim from SUPPLIER for payment (including any amount for fees or expenses) will be allowed for any work done by SUPPLIER with respect to such Services, prior to the Parties' executing the Work Order and CITY issuing a purchase order to SUPPLIER with respect to Services. Work performed by SUPPLIER without written approval by the City's Designated Representative shall not be compensated. Any work performed by SUPPLIER without written approval by CITY is performed at SUPPLIER'S own election. Except for charges or expenses of SUPPLIER expressly set forth in the applicable Work Order, CITY shall not be responsible for any other charges or expenses of SUPPLIER or any mark-ups on any expenses of SUPPLIER. SUPPLIER shall submit invoices to CITY with supporting documentation for approved expenses, signed by the Authorized Representative. Original invoices should be submitted via email to [ap@palmcoastgov.com](mailto:ap@palmcoastgov.com).
- C. Payment Terms.** The Florida Prompt Payment Act shall apply when applicable. Invoices which are in an acceptable form to CITY and without disputable items will be processed for payment under the Prompt Payment Act., Fla. Stat. 218.23; payments shall be made by CITY to SUPPLIER not more than once monthly. SUPPLIER shall continue to perform during any dispute of an invoice.
- D. Financial Reconciliation.** At the completion or termination of the Services and before the final payment will be made, SUPPLIER shall, upon request by CITY, provide CITY with a financial reconciliation of funds paid by CITY and tasks completed or partially completed.

### **3. TERM AND TERMINATION:**

- A. Term.** This Agreement shall take effect on the Effective Date and shall terminate at the end of one (1) year. Following the initial term and at the sole option of CITY, this Agreement may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders and Purchase Orders issued pursuant to this Agreement and prior to the expiration date. Work Orders shall remain in effect until delivery and acceptance of the work authorized by the Work Order as well as during periods of warranty and guarantee.

#### **B. Termination By CITY.**

- i. Termination Without Cause. CITY may terminate this Agreement at any time upon fifteen (15) days prior written notice; provided however, that any Work Order entered into shall survive such termination under the terms of this Agreement until the conclusion of such Work Order unless such Work Order is specifically terminated. CITY may terminate any incomplete Work Order at any time and for any or no reason upon written notice to SUPPLIER. In the event of such termination, SUPPLIER shall immediately cease all work in connection with the applicable Work Order after receipt of written notice from CITY unless such notice expressly provides otherwise.
- ii. Termination for Cause. CITY may terminate this Agreement for cause at any time upon written notice allowing SUPPLIER five (5) days to remedy the breach. Cause shall include but is not limited to:
  1. If, in CITY'S opinion, adequate progress under a Work Order is not being made by SUPPLIER; or
  2. If, in CITY'S opinion, the quality of the services provided by SUPPLIER is/are not in conformance with commonly accepted professional standards, standards of CITY, the requirements of Federal or State regulatory agencies, and SUPPLIER has not corrected such deficiencies in a timely manner as reasonably determined by CITY; or
  3. SUPPLIER or any employee or agent of SUPPLIER is indicted or has a direct charge issued against him for any crime arising out of or in conjunction with any work that has been performed by SUPPLIER; or
  4. SUPPLIER becomes involved in either voluntary or involuntary bankruptcy proceedings, or makes an assignment for the benefit of creditors; or
  5. SUPPLIER violates the Standards of Conduct provisions herein or any provision of State or local law or any provision of the City Code of Conduct.

iii. Except where CITY terminates for cause, SUPPLIER shall be entitled to payment for any work performed and accepted by CITY and any CITY approved expenses irrevocably committed prior to the effective date of termination. CITY shall be entitled to an appropriate refund for any amounts advanced to SUPPLIER for Services not yet performed as of the effective date of termination. SUPPLIER shall not be entitled to any damages for such early termination of Services. In no event shall CITY be responsible for any amounts in the aggregate greater than (i) the total that would have been due under such Work Order or (ii) the value of the work done by SUPPLIER in accordance with such Work Order and this Agreement with respect thereto prior to termination, whichever is less.

iv. Within five (5) days from the effective date of termination, SUPPLIER shall provide or make available to CITY all materials provided by CITY to SUPPLIER and all CITY materials, including any work-in-progress and all full and partial copies thereof, and shall also submit an invoice to CITY in accordance with the pricing set forth in such Work Order for all work done by SUPPLIER in accordance with such Work Order and this Agreement with respect thereto prior to termination.

**C. Termination By SUPPLIER.** SUPPLIER shall have the right to terminate this Agreement or any Work Order hereunder by way of a written notice, if CITY commits a material breach of the Agreement or a Work Order hereunder and fails to remedy such breach within fifteen (15) days after receipt of written notice of default.

**D. Cooperation.** Upon receipt of a notice for any termination of this Agreement and any Work Order hereunder, the Parties shall cooperate with each other and use all commercially reasonable efforts to effect a smooth transition process.

**E. Survivability.** The terms of this Agreement shall survive in full force and effect as to any incomplete Work Orders and Purchase Orders issued prior to the expiration of this Agreement and such Work Orders and Purchase Orders shall continue to be subject to this Agreement until such Work Orders and Purchase Orders are completed or terminated in accordance with this Agreement.

#### **4. REPRESENTATIONS AND WARRANTIES.**

##### **A. SUPPLIER represents and warrants the following:**

i. The Services shall be performed strictly in accordance with and conform to this Agreement, the applicable Work Order and any applicable industry standards and practices.

ii. The Services shall be provided by qualified personnel, suitably skilled and trained in the performance of the Services, and performed in a diligent and professional manner.

iii. SUPPLIER has obtained, at its sole and exclusive expense, any and all permits, licenses, permissions, approvals or similar consents required to perform the Services.

iv. All deliverables, material, supplies or goods provided by SUPPLIER shall be free from defects and be of merchantable quality.

v. All deliverables provided shall be original and shall not infringe any copyright or violate any rights of any persons or entities whatsoever, except that SUPPLIER shall not be responsible for any claim arising solely from SUPPLIER'S adherence to CITY'S written instructions or directions which do not involve items of SUPPLIER'S origin, design or selection.

vi. SUPPLIER shall comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the Services provided to the City. SUPPLIER agrees that any program or initiative involving the work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment shall ensure compliance with any and all employment, safety, environmental and health laws.

**B.** Without limiting any other rights that CITY may have, CITY reserves the right to refuse any Services if SUPPLIER does not, or the Services do not, conform to the foregoing. Acceptance of any part of the Services shall not bind CITY to accept any non-conforming Services simultaneously provided by SUPPLIER, nor deprive CITY of the right to reject any previous or future non-conforming Services.



- C. The representations and warranties contained herein are deemed to be material obligations and shall survive any payment by CITY and shall survive any termination or expiration of this Agreement and any termination or completion of any or all Work Orders.

**5. INDEMNIFICATION/SOVEREIGN IMMUNITY AND INSURANCE.**

- A. **Indemnification.** SUPPLIER shall indemnify and hold harmless CITY, and its officers and employees, from and against liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent the foregoing are caused by the negligence, recklessness, or intentionally wrongful conduct of the SUPPLIER and other persons employed or utilized by the SUPPLIER in performance of this Agreement, including damage to persons or property. The indemnification obligations herein shall not be limited to the amount of insurance coverage required herein or benefits payable by or for SUPPLIER or its agents under worker's compensation acts, disability benefits acts, or other employee benefits acts. This indemnification provision shall survive any termination or expiration of this agreement. PURSUANT TO FLORIDA STATUTES SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE IF THE REQUIREMENT OF THIS SECTION ARE MET.
- B. **Sovereign Immunity.** CITY expressly retains all rights, benefits and immunities of sovereign immunity and nothing herein shall be deemed to affect the rights, privileges, and immunities of City as set forth in Section 768.28, Florida Statutes.
- C. **Insurance.** SUPPLIER shall, at SUPPLIER'S own cost, procure insurance in accordance with Exhibit "B" Insurance Requirements, attached hereto and made a part hereof.

**6. ALTERNATIVE DISPUTE/CONFLICT RESOLUTION.**

- A. In the event of a dispute related to any performance or payment obligation arising under this Agreement, the Parties agree to exhaust the conflict resolution procedures reasonably imposed by CITY prior to filing suit or otherwise pursuing legal remedies.
  - B. SUPPLIER agrees that it will file no suit nor otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the dispute resolution procedures set forth in subsection (A) of this Section.
  - C. In the event that the CITY'S dispute resolution procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the Parties shall exercise their best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be reasonably imposed by CITY. The costs of voluntary mediation shall be shared equally among the Parties participating in the mediation.
- 7. ASSIGNMENT.** SUPPLIER shall not assign this Agreement, any rights hereunder or any monies due or to become due, nor delegate or subcontract any obligations or work, without the prior written consent of CITY, and any such purported assignment without such written consent shall be void. This Agreement shall be binding on SUPPLIER'S heirs, executors, legal representatives, successors and permitted assigns.

- 8. AUDIT OF BOOKS AND RECORDS.** SUPPLIER shall maintain all books, documents, papers, accounting records and other evidence pertaining to this Agreement during the term of this Agreement and for five (5) years subsequent to the expiration or termination of this Agreement and/or final payment whichever is later. CITY or CITY'S authorized representative, may at all reasonable times during the term of this Agreement and for five (5) years thereafter and upon reasonable notice, inspect and audit the books, documents, papers, accounting records and other evidence pertaining to this Agreement and SUPPLIER shall make such materials available at SUPPLIER'S office upon CITY'S request. In the event any audit or inspection conducted after final payment reveals any overpayment by CITY under the terms of this Agreement, SUPPLIER shall refund such overpayment to CITY within thirty (30) days of notice by CITY. SUPPLIER agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

- 9. AUTHORIZED REPRESENTATIVE.** Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement, and to undertake all obligations imposed on it. The person(s) executing this Agreement for SUPPLIER certifies/certify that he/she/they is/are authorized to bind SUPPLIER fully to the terms of this Agreement.

**10. CHOICE OF LAW/JURISDICTION.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Flagler County, Florida, or the Middle District of Florida in Orlando, FL., if in federal court.

**11. COMPLIANCE WITH LAWS.** SUPPLIER agrees to comply with all Federal, State, and City laws, ordinances, regulations, and codes applicable to the Services including, but not limited to, the following:

**A. Discrimination/ADA.** SUPPLIER shall not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision 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. SUPPLIER, moreover, shall comply with all the requirements as imposed by the Americans with Disability Act, the regulations of the Federal government issued thereunder, and any and all requirements of Federal or State law related thereto. If SUPPLIER or an affiliate is placed on a discriminatory vendor list, such action may result in termination by CITY. SUPPLIER shall certify, upon request by CITY, that it is qualified to submit a bid under Section 287.134, Discrimination, (2) (c), Florida Statutes.

**B. Drug Free Workplace.** SUPPLIER shall certify, upon request by CITY, that SUPPLIER maintains a drug free workplace policy in accordance with Section 287.0878, Florida Statutes. Failure to submit this certification may result in termination.

**C. Immigration.** CITY shall not intentionally award publicly-funded contracts to any SUPPLIER who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) Section 274A(e) of the Immigration and Nationality Act (INA)]. CITY shall consider the employment by SUPPLIER of unauthorized aliens, a violation of Section 274A (e) of the INA.

**D. Conflict of Interest.**

- i. SUPPLIER hereby certifies that no undisclosed conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of SUPPLIER, or any interest in property that SUPPLIER may have.
- ii. SUPPLIER shall not engage in any action that would create a conflict of interest for any CITY employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.
- iii. SUPPLIER further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to CITY.
- iv. Violation of this Section shall be considered as justification for immediate termination of this Agreement.

**12. CONTRACT DOCUMENTS.** The RFSQ and all submissions prepared by SUPPLIER in response to the RFSQ are incorporated herein by reference to the extent not inconsistent with the terms and conditions as set forth herein. Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement.

**13. ENFORCEABILITY.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The waiver of a breach of any term or condition of this Agreement or Purchase Order hereunder shall not be deemed to constitute the waiver of any other breach of the same or any other term or condition hereunder. In addition, neither CITY'S review, approval or acceptance of, nor payment for, any Goods provided hereunder shall be construed to operate as a waiver of any rights under this Agreement or the Purchase Order.

**14. ENTIRE AGREEMENT.** This Agreement shall constitute the entire understanding of the Parties and shall not be changed, amended, altered or modified except in writing and signed by authorized representatives of the Parties with the same formality and equal dignity herewith. All prior agreements, whether written or oral between the Parties

relating to the subject matter hereof are superseded by this Agreement and are of no further force or effect. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written. No term included in any invoice, estimate, confirmation, acceptance or any other similar document in connection with this Agreement or a Work Order hereunder shall be effective unless expressly stated otherwise in a writing signed by authorized representatives of the Parties with the same formality and equal dignity herewith. Any amendments to this Agreement must be in writing signed by both Parties. In the event of a conflict between this Agreement and a Work Order or any other writing, this Agreement controls over such inconsistent or additional terms.

**15. E-VERIFY REGISTRATION AND USE**

**A.** Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, SUPPLIER shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all SUPPLIER employees hired on and after January 1, 2021.

**B. Subcontractors**

- i. SUPPLIER shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees it may hire during the term of this Agreement.
  - ii. SUPPLIER shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.
  - iii. SUPPLIER shall maintain a copy of all subcontractor affidavits for the duration of this Agreement and provide it to CITY upon request.
- C.** SUPPLIER must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from SUPPLIER stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system.
- D.** Failure to comply with this provision is a material breach of this Agreement, and shall result in the immediate termination of this Agreement without penalty to CITY. SUPPLIER shall be liable for all costs incurred by CITY to secure a replacement agreement, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable.

**16. EXCLUSIVITY.** The Parties agree that CITY hereunder is not guaranteeing that any minimum amount of Services will be ordered from SUPPLIER under this Agreement. The relationship between SUPPLIER and CITY is not one of exclusivity. Without limiting the foregoing, SUPPLIER agrees that CITY has the right to benchmark, whether formally or informally, any services offered by SUPPLIER or any terms of this Agreement or any Work Order and to competitively bid any project it may have.

**17. INDEPENDENT CONTRACTOR.** The relationship of the Parties established by this Agreement and all Work Orders is that of independent contractors. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the Parties, or as making the SUPPLIER, (including its officers, employees, and agents), the agent, representative, or employee of CITY for any purpose, or in any manner, whatsoever. Persons employed by SUPPLIER in the performance of Services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to CITY'S officers and employees either by operation of law or by CITY.

**18. INTERPRETATION.** This Agreement is the result of bona fide arms length negotiations between CITY and SUPPLIER and all Parties have contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

**19. NOTICES.** Whenever either party desires to give notice to the other, it must be given by written notice, sent by registered or certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving of notice:

**FOR CITY:**  
The City Manager  
City of Palm Coast  
160 Lake Avenue  
Palm Coast, Florida 32164

**FOR SUPPLIER:**  
Erica Jernigan, PE  
DRMP, INC.  
941 Lake Baldwin Lane  
Orlando, Florida 32814

**20. ORDER OF PRECEDENCE.** In the event of a conflict between the terms and conditions of this Agreement and any related exhibits, attachments, proposals, or Work Orders, the terms of this Agreement shall take precedence and control over those of the exhibit, attachment, proposal, or Work Order unless otherwise agreed to in writing by all Parties. In the event of a conflict between the terms and conditions of a Work Order and any related exhibits, attachments, or proposals, the terms of the Work Order shall take precedence and control over those of the exhibit, attachment, or proposal thereto unless otherwise agreed to in writing by all Parties.

**21. PUBLIC RECORDS LAW.**

**A.** The Parties specifically acknowledge that this Agreement is subject to the laws of the State of Florida, including without limitation, Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the Parties. If SUPPLIER is either a "contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, SUPPLIER shall:

- i. Keep and maintain all public records required by CITY to perform the Services herein; and
- ii. Upon request from CITY'S custodian of public records, provide CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law; and
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement Term and following completion of the Agreement if SUPPLIER does not transfer the records to CITY; and
- iv. Upon completion of the Agreement, transfer, at no cost, to CITY all public records in possession of SUPPLIER or keep and maintain public records required by CITY to perform the Services herein. If SUPPLIER transfers all public records to CITY upon completion of the Agreement, SUPPLIER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SUPPLIER keeps and maintains public records upon completion of the Agreement, SUPPLIER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CITY, upon request from CITY'S custodian of public records, in a format compatible with the information technology systems of CITY.

**B.** All requests to inspect or copy public records relating to the Agreement shall be made directly to CITY. Notwithstanding any other provision of this Agreement to the contrary, failure to comply with the requirements of this paragraph shall result in the immediate termination of the Agreement, without penalty to CITY. A contractor who fails to provide the public records to CITY within a reasonable time may be subject to penalties pursuant to Section 119.10, Florida Statutes. Further, SUPPLIER shall fully indemnify and hold harmless CITY, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from SUPPLIER'S failure to comply with these requirements.

**c. IF THE SUPPLIER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUPPLIER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY CLERKS OFFICE, AT 386-986-3713, CityClerk@palmcoastgov.com, 160 LAKE AVENUE, PALM COAST, FLORIDA 32164.**

**22. SEVERABILITY.** If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law when consistent with equity and the public interest.

**23. SUBCONTRACTORS.** In the event that SUPPLIER, during the course of this Agreement, requires the Services of any subcontractors or other professional associates in connection with performance of this Agreement or any Work

Order, SUPPLIER must first secure CITY'S prior express written approval. Any subcontract shall be in writing and shall incorporate this Agreement and require the subcontractors to assume performance of SUPPLIER'S duties commensurately with SUPPLIER'S duties to CITY under this Agreement, it being understood that nothing herein shall in any way relieve SUPPLIER from any of its duties under this Agreement or any Work Order hereunder. SUPPLIER shall remain fully responsible for the performance of subcontractors or other professional associates. SUPPLIER shall provide CITY with executed copies of all subcontracts.

**24. WAIVER.** The failure of CITY to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to CITY hereunder, shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date below written for execution by the CITY.

**CITY OF PALM COAST**

**DRMP, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Signatory)

Print: Denise Bevan

Print Name: \_\_\_\_\_

Title: City Manager

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

- Exhibits
- A - Work Order Template Form
- B - Insurance Requirements

Exhibit A - Work Order Template Form



Work Order # \_\_\_\_\_ PO# \_\_\_\_\_ Project Mgr. \_\_\_\_\_  
name

SUPPLIER NAME: \_\_\_\_\_

Contract Project Title \_\_\_\_\_ Work Order Project Title \_\_\_\_\_

Contract Bid # \_\_\_\_\_ Work Order Bid # \_\_\_\_\_

Contract Resolution # \_\_\_\_\_ Work Order Resolution # \_\_\_\_\_

TOTAL COST: \$ \_\_\_\_\_

1. **INCORPORATION BY REFERENCE** The provisions of the Contract referenced above dated \_\_\_\_\_ ("Agreement") are hereby expressly incorporated by reference into and made a part of this Work Order.
2. **METHOD OF COMPENSATION** (chose one): \_\_\_\_\_ FIXED FEE/LUMP SUM \_\_\_\_\_ UNIT BASED/ NOT TO EXCEED\*
3. **PRICING** (chose one): \_\_\_\_\_ ATTACHED \_\_\_\_\_ INCLUDED IN CONTRACT
4. **SCHEDULE** (chose one): \_\_\_\_\_ AS NEEDED BASIS \_\_\_\_\_ SHALL BE COMPLETED BY - \_\_\_\_ / \_\_\_\_ /20 \_\_\_\_
5. **DESCRIPTION OF SERVICES** (chose one): \_\_\_\_\_ ATTACHED \_\_\_\_\_ INCLUDED IN CONTRACT
6. **OTHER ATTACHMENTS TO THIS WORK ORDER:** \_\_\_\_\_ No \_\_\_\_\_ Yes If yes, identify: \_\_\_\_\_
7. **MISCELLANEOUS:** \_\_\_\_\_
8. **TIME IS OF THE ESSENCE:** The obligation of Supplier to perform services shall commence upon execution of this Work Order and shall be completed as set forth above. Time is of the essence. Failure to meet the completion date shall be a material default and may be grounds for termination of this Work order and the Agreement.
9. **CONFLICT.** In the event of a conflict between the terms and conditions of the Agreement and this Work Order, the terms of the Agreement shall govern unless otherwise agreed to in writing by all parties. In the event of a conflict between the terms and conditions of this Work Order and any attachments, the terms of this Work Order shall govern unless otherwise agreed to in writing by all parties.

WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the purposes stated herein.

SUPPLIER APPROVAL

CITY APPROVAL

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Assistant City Manager or Designee

Date: \_\_\_\_\_

Date: \_\_\_\_\_

BPO Use Only:

Req # \_\_\_\_\_

Requisition Creator \_\_\_\_\_  
name

Select one: \_\_\_\_\_ New PO \_\_\_\_\_ Increase to Existing/ P.O. Adjustment

**EXHIBIT B**  
**Insurance Requirements**

**1. GENERAL.**

- 1.1. Prior to performance under this Agreement, SUPPLIER shall furnish CITY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required in Section 3 below. CITY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy using CG 1185 or its equivalent, as well as additional insured under the business auto policy. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by SUPPLIER and shall be maintained in force until the Agreement completion date. The insurance provided by SUPPLIER shall apply on a primary basis and any other insurance or self-insurance maintained by CITY or CITY'S officials, officers, or employees shall be in excess of and not contributing with the insurance provided by or on behalf of SUPPLIER. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The Certificate of Insurance shall provide that CITY shall be given not less than thirty (30) days written notice prior to the modification, cancellation or restriction of coverage.
- 1.2. Until such time as the insurance is no longer required to be maintained by SUPPLIER, SUPPLIER shall provide CITY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided. In addition to providing the Certificate of Insurance, if required by CITY, SUPPLIER shall, within thirty (30) days after receipt of the request, provide CITY with a certified copy of each of the policies of insurance providing the coverage required.
- 1.3. SUPPLIER waives all rights against CITY for recovery of damages to the extent covered by Commercial General Liability, Commercial Umbrella Liability, Business Auto Liability or Workers Compensation and Employers Liability insurance maintained per requirements herein.
- 1.4. Neither approval by CITY nor failure to disapprove the insurance furnished by a subcontractor or another supplier shall relieve SUPPLIER of SUPPLIER'S full responsibility for performance of any obligation including SUPPLIER indemnification of CITY under this Agreement.
- 1.5. It shall also be the responsibility of SUPPLIER to ensure that all of its subcontractors performing Services under this Agreement are in compliance with the insurance requirements of this Agreement as defined above.
- 1.6. Compliance with the insurance requirements set forth herein shall not relieve SUPPLIER, its employees or agents of liability from any indemnification obligation under this Agreement.
- 1.7. Nothing herein shall be construed as a waiver of sovereign immunity by CITY beyond the limits set forth in Section 768.28, Florida Statutes.

**2. INSURANCE COMPANY REQUIREMENTS.**

- 2.1. SUPPLIER shall obtain or possess and continuously maintain the coverage from a company or companies, with a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best CITY. Companies issuing policies other than Workers' Compensation, must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.
- 2.2. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Section 440.57, Florida Statutes, or 3) fail to maintain the requisite Best's Rating and Financial Size Category, SUPPLIER shall, as soon as SUPPLIER has knowledge of any such circumstance, immediately notify CITY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as SUPPLIER has replaced the unacceptable insurer with an insurer acceptable to CITY, SUPPLIER shall be deemed to be in default of this Agreement.

3. **COVERAGE.** Without limiting any of the other obligations or liability of SUPPLIER, SUPPLIER shall, at SUPPLIER'S sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum

requirements set forth in this subsection. The amounts and types of insurance shall conform to the following minimum requirements:

### 3.1. Workers' Compensation/Employer's Liability.

**A. Workers Compensation Coverage** SUPPLIER'S insurance shall cover SUPPLIER for liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. SUPPLIER will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both SUPPLIER and its subcontractors is outlined in subsection (b) below. In addition to coverage from the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employers' Liability Act and any other applicable Federal or State law. Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

**B. Employers Liability Coverage**

\$500,000.00	(Each Accident)
\$500,000.00	(Disease-Each Employee)
\$500,000.00	(Disease-Policy Limit)

### 3.2. Commercial General Liability.

Using the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment and the elimination of coverage for Fire Damage Legal Liability:

	LIMITS
General Aggregate (per project) greater)	\$2,000,000.00 or 2x Per Occurrence (whichever is greater)
Personal & Advertising Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00

The CGL limits may be satisfied by a combination of primary CGL and Umbrella/Excess coverage. When Umbrella/Excess is provided it shall follow form.

### 3.3. Business Auto Policy.

SUPPLIER'S insurance shall cover SUPPLIER for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

The minimum limits to be maintained by SUPPLIER (inclusive of any amounts provided by an Umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, SUPPLIER shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the work under this Agreement. The separate aggregate limits to be maintained by SUPPLIER shall be a minimum of three (3) times the per accident limit required and shall apply separately to each policy year or part thereof.

The minimum amount of coverage under the Business Auto Policy shall be:

	LIMITS
Each Occurrence Bodily Injury and Property Damage Liability Combined	\$1,000,000.00

**3.4. Professional Liability:** SUPPLIER shall provide professional liability insurance as well as errors and omission insurance in a minimum amount of \$1,000,000 CSL or its equivalent, with a combined single limit of not less than \$1,000,000, protecting SUPPLIER against claims of the City for negligence, errors, mistakes, or omissions in the performance of Services to be performed and furnished by SUPPLIER.





# City of PALM COAST

**Finance Department**  
Budget & Procurement Office

160 Lake Avenue  
Palm Coast, FL 32164  
386-986-3730

## NOTICE OF INTENT TO AWARD

**Project:** CEI Services for London Waterway Expansion - RFSQ-SWE-23-32

**Date:** 7/28/2023

**Appeal Deadline:** Appeals must be Filed by 5:00 PM on 8/2/2023

Firm	Points
DRMP, Inc.	88.00

The intent of the City of Palm Coast is to award CEI Services for London Waterway Expansion to DRMP, Inc.

**Cc: Contract Coordinator, Project Manager, BPO Manager, Financial Services Director, Department Director**

*For questions regarding the NOIT please contact Procurement Coordinator [sknolan@palmcoastgov.com](mailto:sknolan@palmcoastgov.com).*

*Bid protests arising under City Bidding Documents or Procedures shall be resolved under the City of Palm Coast Budget and Procurement Office Bid Protest procedures.*

*A proposer may protest matters involving the award of this Bid within three (3) business days from the posting of this recommendation to award. Failure to protest to the Assistant City Manager, Lauren Johnston ( [LJohnston@palmcoastgov.com](mailto:LJohnston@palmcoastgov.com) ) shall constitute a waiver of the protest proceedings.*





# City of PALM COAST

**Finance Department**  
Budget & Procurement Office

160 Lake Avenue  
Palm Coast, FL 32164  
386-986-3730

## NOTICE OF INTENT TO AWARD

**Project:** ITB-SWE-23-43 - London Waterway Expansion

**Date:** 7/7/2023

**Appeal Deadline:** Appeals must be filed by 5:00 PM on 7/12/2023

Firm	Bid
<b>Custom Built Marine Construction, Inc.</b> Fort Pierce, Florida	\$8,236,193.73 Base Bid Plus Alternate 2
MASCI Construction, Inc. Port Orange, Florida	\$9,195,092.14 Base Bid Plus Alternate 2

The intent of the City of Palm Coast is to award ITB-SWE-23-43 to Custom Built Marine Construction, Inc.

Cc: Contract Coordinator, Project Manager, BPO Manager, Financial Services Director, Department Director.

*For questions regarding the NOIT please contact Procurement Coordinator [sknolan@palmcoastgov.com](mailto:sknolan@palmcoastgov.com).*

*Bid protests arising under City Bidding Documents or Procedures shall be resolved under the City of Palm Coast Budget and Procurement Office Bid Protest procedures.*

*A proposer may protest matters involving the award of this Bid within three (3) business days from the posting of this recommendation to award. Failure to protest to the Assistant City Manager, Lauren Johnston ( [LJohnston@palmcoastgov.com](mailto:LJohnston@palmcoastgov.com) ) shall constitute a waiver of the protest proceedings.*





# ITB-SWE-23-43 - LONDON WATERWAY EXPANSION

## Project Overview

Project Details	
<b>Reference ID</b>	ITB-SWE-23-43
<b>Project Name</b>	LONDON WATERWAY EXPANSION
<b>Project Owner</b>	Shannon Nolan
<b>Project Type</b>	ITB
<b>Department</b>	Procurement
<b>Budget</b>	\$0.00 - \$0.00
<b>Project Description</b>	<p>The City of Palm Coast is seeking qualified Contractors to expand the Stormwater attenuation and treatment capacity of the London Waterway by construction of a lake on City-owned property that is adjacent to the London Canal, in accordance with the attached set of construction plans. The stormwater storage capacity “lake” to be created is located in the Matanzas Woods Neighborhood on the northern part of Palm Coast City Limits (see location maps) and is surrounded by residential homes. Access to this site will be through easements and indicated on construction plans. The Contractor shall provide all work required for a completed project including, but not limited to labor, supervision, traffic control, materials, equipment, installation, and incidentals required for a complete project. CONTRACTOR shall also provide material samples, as necessary, to ensure compliance with manufacturer’s recommendations. Installation of all materials shall be in accordance with all applicable CITY standards and requirements, applicable Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction (latest edition), manufacturer and industry preferred standards.</p>



<b>Open Date</b>	May 17, 2023 8:00 AM EDT
<b>Intent to Bid Due</b>	Jun 21, 2023 2:00 PM EDT
<b>Close Date</b>	Jun 22, 2023 2:00 PM EDT

<b>Awarded Suppliers</b>	<b>Reason</b>	<b>Score</b>
<b>Custom Built Marine Construction, Inc</b>		<b>100 pts</b>

## Seal status

<b>Requested Information</b>	<b>Unsealed on</b>	<b>Unsealed by</b>
Section 00100, Forms A-I (Except Form C) & Bidder Profile Sheet	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Section 00200, Forms A-F, and Bidder Bid Form	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Addendum (If Issued)	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Construction Forms 5 & 6	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Bid Form A Bid Schedule	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Section 00100, Form C Financial Statements	Jul 05, 2023 11:27 AM EDT	Shannon Nolan
Bid Security	Jun 22, 2023 2:02 PM EDT	Shannon Nolan
Licenses (General Contractor & Underground Utility)	Jun 22, 2023 2:02 PM EDT	Shannon Nolan

## Conflict of Interest



# Declaration of Conflict of Interest You have been chosen as a Committee member for this Evaluation. Please read the following information on conflict of interest to see if you have any problem or potential problem in serving on this committee. ## Code of Conduct All information related to submissions received from Suppliers or Service Providers must be kept confidential by Committee members. ## Conflict of Interest No member of a Committee shall participate in the evaluation if that Committee member or any member of his or her immediate family: \* has direct or indirect financial interest in the award of the contract to any proponent; \* is currently employed by, or is a consultant to or under contract to a proponent; \* is negotiating or has an arrangement concerning future employment or contracting with any proponent; or, \* has an ownership interest in, or is an officer or director of, any proponent. Please sign below acknowledging that you have received and read this information. If you have a conflict or potential conflict, please indicate your conflict on this acknowledgment form with information regarding the conflict. I have read and understood the provisions related to the conflict of interest when serving on the Evaluation Committee. If any such conflict of interest arises during the Committee's review of this project, I will immediately report it to the Purchasing Director.

Name	Date Signed	Has a Conflict of Interest?
Carl Cote	Jun 22, 2023 2:59 PM EDT	No
Carmelo Morales	Jun 23, 2023 2:54 PM EDT	No
Ginger Norberg	Jul 05, 2023 4:40 PM EDT	No
Andrea Mudryk	Jun 22, 2023 2:04 PM EDT	No
Shannon Nolan	Jun 22, 2023 2:03 PM EDT	No
Eric Gebo	Jun 22, 2023 2:21 PM EDT	No



## Project Criteria

Criteria	Points	Description
Administrative Review	Pass/Fail	All documents completed and submitted as requested.
Technical Review Qualification 00100	Pass/Fail	Review Qualification Forms A-I and References
Technical Review Qualification 00200	Pass/Fail	Review Bid Forms 00200 A-F
Technical Review Construction Forms	Pass/Fail	Review Forms 5 & 6
Admin Review Addenda	Pass/Fail	Ensure Addenda (If Issued) are returned signed/dated
Admin Bid Form Pricing Review	100 pts	Direct Price Entry
Admin Financial Review	Pass/Fail	Review Form C
<b>Total</b>	<b>100 pts</b>	



# Scoring Summary

## Active Submissions

	<b>Total</b>	<b>Administrative Review</b>	<b>Technical Review Qualification 00100</b>	<b>Technical Review Qualification 00200</b>	<b>Technical Review Construction Forms</b>
<b>Supplier</b>	<b>/ 100 pts</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>	<b>Pass/Fail</b>
Custom Built Marine Construction, Inc	100 pts	Pass	Pass	Pass	Pass
MASCI	88.89 pts	Pass	Pass	Pass	Pass

	<b>Admin Review Addenda</b>	<b>Admin Bid Form Pricing Review</b>	<b>Admin Financial Review</b>
<b>Supplier</b>	<b>Pass/Fail</b>	<b>/ 100 pts</b>	<b>Pass/Fail</b>
Custom Built Marine Construction, Inc	Pass	100 pts (\$8,171,035.10)	Pass



	<b>Admin Review Addenda</b>	<b>Admin Bid Form Pricing Review</b>	<b>Admin Financial Review</b>
<b>Supplier</b>	<b>Pass/Fail</b>	<b>/ 100 pts</b>	<b>Pass/Fail</b>
MASCI	Pass	88.89 pts (\$9,192,069.92)	Fail





# RFSQ-SWE-23-32 - CONSTRUCTION ENGINEERING & INSPECTION (CEI) SERVICES FOR LONDON WATERWAY EXPANSION

## Project Overview

Project Details	
<b>Reference ID</b>	RFSQ-SWE-23-32
<b>Project Name</b>	CONSTRUCTION ENGINEERING & INSPECTION (CEI) SERVICES FOR LONDON WATERWAY EXPANSION
<b>Project Owner</b>	Shannon Nolan
<b>Project Type</b>	RFSQ
<b>Department</b>	Procurement
<b>Budget</b>	\$0.00 - \$0.00
<b>Project Description</b>	The City of Palm Coast is seeking proposals from qualified firms capable of providing Construction Engineering and Inspection Services for the London Waterway Expansion project. This project consists of creating a flood storage area, piped inflow, and outflow (with structures), utility relocations, construction of boardwalks and wetland / upland with native plantings as described in the final construction plans.
<b>Open Date</b>	Mar 01, 2023 8:00 AM EST
<b>Intent to Bid Due</b>	Mar 29, 2023 2:00 PM EDT
<b>Close Date</b>	Mar 30, 2023 4:00 PM EDT



Highest Scoring Supplier	Score
DRMP, Inc.	88 pts

## Seal status

Requested Information	Unsealed on	Unsealed by
RFSQ Proposal	Mar 30, 2023 4:34 PM EDT	Shannon Nolan
Required Forms 1 - 5 & References	Mar 30, 2023 4:34 PM EDT	Shannon Nolan
Addendums 1 & 2	Mar 30, 2023 4:34 PM EDT	Shannon Nolan

## Conflict of Interest

# Declaration of Conflict of Interest You have been chosen as a Committee member for this Evaluation. Please read the following information on conflict of interest to see if you have any problem or potential problem in serving on this committee. ## Code of Conduct All information related to submissions received from Suppliers or Service Providers must be kept confidential by Committee members. ## Conflict of Interest No member of a Committee shall participate in the evaluation if that Committee member or any member of his or her immediate family: \* has direct or indirect financial interest in the award of the contract to any proponent; \* is currently employed by, or is a consultant to or under contract to a proponent; \* is negotiating or has an arrangement concerning future employment or contracting with any proponent; or, \* has an ownership interest in, or is an officer or director of, any proponent. Please sign below acknowledging that you have received and read this information. If you have a conflict or potential conflict, please indicate your conflict on this acknowledgment form with information regarding the conflict. I have read and understood the provisions related to the conflict of interest when serving on the Evaluation Committee. If any such conflict of interest arises during the Committee's review of this project, I will immediately report it to the Purchasing Director.

Name	Date Signed	Has a Conflict of Interest?
Tyler Gibson	Mar 31, 2023 7:48 AM EDT	No



Carmelo Morales	Apr 06, 2023 9:10 AM EDT	No
Andrea Mudryk	Apr 04, 2023 11:45 AM EDT	No
Shannon Nolan	Apr 11, 2023 1:01 PM EDT	No



## Project Criteria

Criteria	Points	Description
Administrative Review	Pass/Fail	Check for submission as requested and completeness
Project Team	20 pts	<p>Provide an organization chart showing a staffing plan, which clearly illustrates the key elements of the organizational structure of the entire project team with specific proposed functions for each individual listed. Identify the project team members, including major and minor sub-consultants, and provide their contact information and technical resumes. Project management and key personnel within each area of required services shall be identified and past experience of each, as it relates to this project, shall be discussed. The City must approve any changes to the Project Management &amp; Key Personnel. Identify Team's communication abilities outlining the systems for internal and external communication that are in place to ensure effective communication between team members, contractor, City and the Public. This section should include information only on the individuals who will perform work on this project. Credit shall be given for organization of the Proposer's team, including sub consultants for the staffing of the project, including the key staff's experience (must denote specific roles &amp; responsibilities with past projects) and skills relevant to the proposed assignments. Teams that have worked together on previous projects will receive more credit. 0 = Unacceptable – No Response Provided or Information Does not Meet or Comply with Criteria 1 = Poor – Partial submittal or very limited info meets requirements 2 = Below Standard – Mostly does not meet requirements 3 = Marginal – Partially Meets Criteria 4 = Average – Barely Meets Requirements 5 = Above Average – Meets Requirements 6 = Good – Slightly</p>



		above Requirements 7 = Very Good – Meets Requirements with partial that exceed 8 = Well above average – Meets Requirements with majority that exceed 9 = Excellent – Exceeds Requirements 10 = Outstanding – Far Exceeds Requirements
Experience with Similar Projects	50 pts	Provide a listing of similar projects, maximum of five (5), by a team member who is specifically part of the team proposed in the response. Identify specific project details, including but not limited to, location, owner, project budget, project description, project time to completion, and outcomes. Provide the contact information for the entities where work has been done for reference purposes. More credit will be given for FDOT funded projects. 0 = Unacceptable – No Response Provided or Information Does not Meet or Comply with Criteria 1 = Poor – Partial submittal or very limited info meets requirements 2 = Below Standard – Mostly does not meet requirements 3 = Marginal – Partially Meets Criteria 4 = Average – Barely Meets Requirements 5 = Above Average – Meets Requirements 6 = Good – Slightly above Requirements 7 = Very Good – Meets Requirements with partial that exceed 8 = Well above average – Meets Requirements with majority that exceed 9 = Excellent – Exceeds Requirements 10 = Outstanding – Far Exceeds Requirements
Project Innovation	10 pts	In this section, discuss any ideas, innovative approaches, or specific new concepts included in the proposal that would benefit the City. The Proposer may suggest technical or procedural innovations that have been used successfully on other engagements. 0 = Unacceptable – No Response Provided or Information Does not Meet or Comply with Criteria 1 = Poor – Partial submittal or very limited info meets requirements 2 = Below Standard – Mostly does not meet requirements 3 = Marginal – Partially Meets Criteria 4 = Average – Barely Meets Requirements 5 = Above Average – Meets Requirements 6 = Good – Slightly



		above Requirements 7 = Very Good – Meets Requirements with partial that exceed 8 = Well above average – Meets Requirements with majority that exceed 9 = Excellent – Exceeds Requirements 10 = Outstanding – Far Exceeds Requirements
Project Understanding & Proposal	20 pts	This section shall establish that the Proposer understands the City’s objectives and work requirements and Proposer’s ability to satisfy those objectives and requirements. 0 = Unacceptable – No Response Provided or Information Does not Meet or Comply with Criteria 1 = Poor – Partial submittal or very limited info meets requirements 2 = Below Standard – Mostly does not meet requirements 3 = Marginal – Partially Meets Criteria 4 = Average – Barely Meets Requirements 5 = Above Average – Meets Requirements 6 = Good – Slightly above Requirements 7 = Very Good – Meets Requirements with partial that exceed 8 = Well above average – Meets Requirements with majority that exceed 9 = Excellent – Exceeds Requirements 10 = Outstanding – Far Exceeds Requirements
<b>Total</b>	<b>100 pts</b>	



# Scoring Summary

## Active Submissions

	<b>Total</b>	<b>Administrative Review</b>	<b>Project Team</b>	<b>Experience with Similar Projects</b>	<b>Project Innovation</b>
<b>Supplier</b>	<b>/ 100 pts</b>	<b>Pass/Fail</b>	<b>/ 20 pts</b>	<b>/ 50 pts</b>	<b>/ 10 pts</b>
DRMP, Inc.	88 pts	Pass	18 pts	42.67 pts	8.667 pts

	<b>Project Understanding &amp; Proposal</b>
<b>Supplier</b>	<b>/ 20 pts</b>
DRMP, Inc.	18.67 pts

**City of Palm Coast CEI Services - London Waterway Improvements Project**  
**CEI SERVICES MANPOWER CHART**

DRMP Job #23-0141

**FPID:** NA  
**Owner:** City of Palm Coast  
**Project Description:** Construct new pond in residential area, inflow and outflow storm piping from London Waterway  
**Construction Duration:** 360 days to substantial + 45

Updated July 2023  
 Again August 2023

CEI Personnel	Month																TOTAL		Loaded Rate	Amount
	Pre-Const	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Post-Const	Months	Man-hours		
Senior Project Engineer	0.20	0.20	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.20	1.90	328.70	\$ 225.00	\$ 73,958
Project Administrator	0.20	0.40	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.30	0.30	0.30	0.30	0.30	0.30	4.00	692.00	\$ 160.00	\$ 110,720
Senior Inspector	0.10	1.00														0.25	1.35	233.55	\$ 110.00	\$ 25,691
Inspector										1.00	1.00	1.00	1.00	1.00	1.00	0.25	6.25	1,081.25	\$ 80.00	\$ 86,500
Laboratory Materials Testing	8 proctors/ 1 LBRs, SP asphalt, no struct concrete																1 Lump Sum		\$ -	\$ 2,500
<b>Total</b>																		<b>2,335.50</b>	<b>Total</b>	<b>\$ 299,369</b>

**SCOPE NOTES** 270,000 CY of dirt to excavate and move from new pond, across London Drive and to US1 across golf course land. From there SB to WB Mantanzas Woods Pkwy future extension.

RCP conveyance up to 60" dia. Misc drainage into pond, boardwalks and asphalt trail paths.

Full oversight first months to establish process. Following eight months of hauling, with PT inspection only. Return to full oversight for pond completion, pipes, boardwalks etc.

**Assumes no compliance/ RCS needed.**

gms Deleted inspector during dirt hauling. For discussion, cover with weekly PA or SPE visit?

Task No.	CEI Task/Scope of Services
1	Preconstruction Conference- Invite all appropriate agencies with contact names and numbers; Administer and facilitate preconstruction meeting & EEO meeting; Prepare agendas; Prepare and distribute meeting minutes for both the precon and EEO
2	Preconstruction Activities- Prepare field books; Prepare quantity spreadsheets; Prepare DWR template; RCS preparation for Contractor
3	Schedule Review- Review the logic and relationships of each work activity; Review start and finish dates for each activity; Review project float duration; Review production rates of each work activity for accuracy
4	Onsite Inspection Services- Inspection coverage; Ensure project is constructed in accordance with Contract documents; Perform materials testing; Inspect environmental compliance and FHWA Compliance
5	Project Management/Contract Administration - Public Information; Cost Control; Resolve constructability issues; Coordination with applicable business owners/utility owners
6	Progress Meetings- Invite attendees; Prepare agenda; Prepare and distribute meeting minutes; Resolve Contractor/project issues
7	Project Submittals- Review RFIs and make recommendations; Review Shop Drawing and Material submittals
8	Monthly Pay Estimate Review - Review/verify quantity of installed pay items
9	Final Project Acceptance/Project Closeout- Develop punch list; Administer preliminary and final project Walk-Through Meetings; Prepare and submit final project records; Review/verify As-Built Plans





**Exhibit "A"**  
**Effective February 27, 2023**

<b>Administrative/Office Support</b>	<b>Rate</b>
Administrative Support I	\$75.00
Administrative Support II	\$85.00
Senior Administrative Support	\$120.00
Senior Administrative Supervisor	\$145.00
Administrative Department Manager	\$215.00
Reproduction Support	\$95.00
Information Systems I	\$95.00
Information Systems II	\$155.00
<b>Graphic Design</b>	
Graphic Designer I	\$90.00
Graphic Designer II	\$155.00
<b>Technical Writing</b>	
Technical Writer I	\$75.00
Technical Writer II	\$120.00
<b>Engineering</b>	
Engineering Technician I	\$85.00
Engineering Technician II	\$125.00
Engineer I	\$110.00
Engineer II	\$120.00
Engineer III	\$170.00
Engineer IV (PE)	\$205.00
Senior Engineer I (PE)	\$235.00
Chief Engineer II (PE)	\$265.00
<b>Planning</b>	
Planner I	\$110.00
Planner II	\$120.00
Senior Planner I	\$140.00
Senior Planner II	\$170.00
<b>CEI</b>	
Inspector I	\$65.00
Inspector II	\$80.00
Senior Inspector I	\$95.00
Senior Inspector II	\$110.00
Specialist (Materials, Contract, IT, etc.)	\$125.00
Project Administrator I	\$140.00
Project Administrator II	\$160.00
Inspection Manager	\$190.00
Resident Engineer	\$225.00
<b>NBIS - Bridge Inspection</b>	
NBIS Engineer	\$225.00
NBIS Team Leader	\$165.00
NBIS Team Member	\$90.00
<b>Public Relations</b>	
Public Relations I	\$120.00
<b>Expert Witness</b>	
Expert Witness Research	\$215.00
Expert Witness Testimony	\$325.00
<b>Designers</b>	
Designer I	\$145.00
Designer II	\$160.00
Designer III	\$170.00

<b>Environmental</b>	<b>Rate</b>
Environmental Scientist I	\$80.00
Environmental Scientist II	\$90.00
Environmental Scientist III	\$115.00
Chief Environmental Scientist	\$130.00
Senior Ecologist	\$210.00
<b>GIS</b>	
GIS Technician	\$65.00
GIS Analyst I	\$80.00
GIS Analyst II	\$95.00
GIS Analyst III	\$145.00
GIS Project Manager	\$140.00
GIS Senior Project Manager	\$185.00
<b>Geomatics / Survey &amp; Mapping</b>	
2-Person Survey Crew	\$170.00
3-Person Survey Crew	\$220.00
4-Person Survey Crew	\$260.00
Survey Technician I	\$105.00
Survey Technician II	\$115.00
Survey Technician III	\$120.00
Surveyor IV (PSM/PLS)	\$150.00
Surveyor V (PSM/PLS)	\$180.00
Surveyor VI (PSM/PLS)	\$220.00
Surveyor VII Chief	\$275.00
<b>LiDAR (Remote Sensing)</b>	
Mobile LiDAR Daily Rate (Equipment)	\$4,500.00
Unmanned Autonomous System UAS Operator	\$155.00
Unmanned Autonomous System UAS Technician	\$95.00
UAS LiDAR Daily Rate (Equipment)	\$1,500.00
<b>Ground Penetrating Radar (GPR) Services</b>	
GPR Technician	\$120.00
2-Person GPR/Concrete Imaging Crew	\$185.00
<b>Subsurface Utility Engineering (SUE)</b>	
1-Person Utility Designate	\$120.00
2-Person Utility Designate/Locate Crew	\$185.00
3-Person Vacuum Excavation SUE Crew	\$240.00
4-Person Vacuum Excavation SUE Crew	\$285.00
SUE Manager	\$180.00
Senior SUE Manager	\$220.00
Utility Locate Coordinator	\$150.00
Senior SUE Tech	\$120.00
<b>Management</b>	
Project Manager I	\$210.00
Senior Project Manager I	\$250.00
Senior Project Manager II	\$325.00
Supervising Engineer	\$235.00
Department Managers I	\$215.00
Department Managers II	\$250.00
Division Managers I	\$275.00
Division Managers II	\$325.00
Principals	\$405.00