

CITY OF BUNNEL, FLORIDA
MASTER AGREEMENT FOR CONTINUING PROFESSIONAL SERVICES
CONTRACT # 2024-16

THIS MASTER AGREEMENT FOR CONTINUING PROFESSIONAL SERVICES, hereinafter referred to as the “Master Agreement”, is made and entered into this 10 day of April, 2024, by and between the CITY OF BUNNELL, a Florida municipality, hereinafter referred to as the “City”, and EXP U.S. Services, Inc., hereinafter referred to as “Consultant”.

WITNESSETH:

WHEREAS, Consultant is licensed in the State of Florida to perform the professional services contracted for herein; and

WHEREAS, the City wishes to contract with a Consultant to provide the Scope of Services and products/services based on the terms and subject to the conditions contained herein; and

WHEREAS, Consultant is qualified, willing and able to provide the Scope of Services and products / services specified on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this Contract with Consultant to perform the Scope of Services and product / services specified and, with a commission amount to be paid as agreed upon below; and

WHEREAS, In 2024, the City advertised a Request for Qualifications, (RFQ # 2024-01), hereinafter referred to as the “RFQ”; and

WHEREAS, at their regularly scheduled meeting on April 8, 2024, the City Commission of the City of Bunnell voted that the Consultant was qualified, experienced and capable to execute the terms of the RFQ; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the Consultant’s compliance for Florida’s Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency’s statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their Consultants and subConsultants; and

WHEREAS, Section 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists; and

WHEREAS, Section 287.05701, Fla. Stat. requires notification to vendors in solicitations for procurement of commodities or contractual services, of the local government's prohibition against considering social, political, or ideological interests in government contracting; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Section 558.0035, Florida Statutes limits liability for negligence for design professionals if certain criteria are met.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. Amendment.

This Master Agreement hereby amends and supplements the terms of any prior written agreement between the parties. In the event of a conflict between the terms of the Master Agreement and terms of any prior agreement, the terms of the Master Agreement shall prevail.

2. Term

The term of this Agreement shall be effective for a five-year period immediately following the date of execution by the City. The City shall reserve the sole right to renew this agreement in writing for two additional twenty-four (24) month periods prior to the expiration of each term.

3. Compliance with the Requirements of the RFQ.

The Consultant shall comply with all requirements of the RFQ and will honor any response thereto, including bids, statement of qualifications, experience and resumes, scopes of work, fee schedules and the term of this Master Agreement.

4. Work Orders and Invoices.

The City shall independently negotiate Work Orders with Consultant to perform specific projects. All Work Orders shall be governed by the terms contained herein and those requirements of the RFQ. The Consultant shall submit invoices for services provided and fees earned on a monthly basis. Such invoices shall be supported by a progress report showing the actual tasks performed and their relation to the percentage of fee claimed. Monthly invoices shall be paid by the City in accordance with Section 218.74, Florida Statutes. Resolution of improper payment requests or disputes between the City and the Consultant will be resolved in accordance with Section 287.76, Florida Statutes. The Consultant's fee schedule and any general provisions, which are attached hereto and made a part hereof as **Exhibit "A"**, shall be apply throughout the term of this Agreement, unless otherwise modified in writing.

5. Scope of Services.

Upon request by the City, the Consultant shall perform any of the following services as provided in their RFQ submittal:

- a) General Planning Services
- b) Comprehensive Plan Analysis
- c) Land Use and Zoning Analysis
- d) Site Plan Review (including landscaping)
- e) Public Outreach Services
- f) Plat Review
- g) Planned Unit Development Review
- h) Flood Plain Review
- i) GIS Services
- j) Environmental Services

6. Termination.

If the City or Consultant fails to comply with any covenant or obligation imposed by this agreement, the non-breaching Party may furnish written notice to the other Party identifying the breach and applicable provisions of this Agreement that have been violated. If the breaching Party fails to cure the breach within 15 days, the non-breaching Party may then terminate this agreement without further written notice to the other. The City or the Consultant may terminate this Agreement without cause by delivering 30 days written notice to the other. In the event of any termination, the parties shall work together to ensure any outstanding work product and payment thereof shall be delivered to the other Party without delay.

7. Public Records Compliance.

Consultant agrees that, to the extent that it may "act on behalf" of the City within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Master Agreement, it shall:

- a) Keep and maintain public records required by the public agency to perform the service.
- b) Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.
- c) 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 contract term and following completion of the contract if the Consultant does not transfer the records to the public agency.
 - d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Consultant or keep and maintain public records required by the public agency to perform the service. If the Consultant transfers all public records to the public agency upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
 - e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY OF BUNNELL
CITY CLERK
604 E MOODY BLVD., UNIT 6
PO BOX 756
BUNNELL, FLORIDA 32110
(386) 437-8253
EMAIL: KBATES@BUNNELLCITY.US**

8. Public Records Compliance Indemnification.

Consultant agrees to indemnify and hold the City harmless against any and all claims, damage awards, and causes of action arising from the Consultant's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Consultant's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Consultant authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Consultant in Volusia County Circuit Court on an expedited basis to enforce the requirements of this section.

9. Insurance.

- a) Consultant must maintain such insurance as will fully protect both Consultant and the City from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for professional liability, personal injury, including death, made by anyone whomsoever, to the extent caused by Consultant's negligent professional performance of professional services, that may arise from operations carried on under this Agreement, either by Consultant, any of its subConsultants, or by anyone directly or indirectly engaged or employed by either of them.
- b) The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. The amount of insurance required by this Agreement must not be less than:
 - i. Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$500,000.00 each accident, \$500,000.00 each employee, \$500,000.00 policy limit for disease;
 - ii. Commercial General Liability (CGL) insurance with a limit of not less than \$300,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work in the amount of \$600,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent Consultants, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00;
 - iii. Commercial Automobile Liability Insurance with a limit of not less than \$300,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
 - iv. Professional Liability. Consultant shall maintain Professional liability or equivalent Errors and Omissions Liability, with limits not less than \$1,000,000.00 per claim / occurrence for professional services rendered under this Agreement. If coverage is written on a claims-made basis: a) any retroactive date shall precede the effective date of this Agreement; b) Consultant shall provide certificates of insurance evidencing the required coverage for a period of one year after final payment under this Agreement is made, or provide evidence showing Consultant has obtained a one-year extended reporting period endorsement.
- c) Consultant must furnish the City with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation and Professional Liability. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must

provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the City before commencement of any work activities.

The insurance coverages procured by Consultant as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to Consultant, and any other insurance, or self-insurance available to Consultant will be considered secondary to, or in excess of, the insurance coverage(s) procured by Consultant as required herein.

10. Compliance/Consistency with Section 768.28, Fla. Stat.

Any indemnification or agreement to defend or hold harmless by City specified in this Master Agreement shall not be construed as a waiver of City's sovereign immunity and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by City in the Agreement in derogation hereof shall be void and of no force or effect.

11. Non-appropriation.

City's performance and obligation to pay under this Master Agreement is contingent upon an appropriation during the City's annual budget approval process. If funds are not appropriated for a fiscal year, then the Consultant shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of this Master Agreement, and this Master Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of this Master Agreement at fiscal year end shall be without penalty or expense to the City subject to the City paying all invoices for services rendered during the period this Master Agreement was funded by appropriations.

12. E-Verify Compliance.

Consultant affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Consultant is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Consultant requires from each of its subConsultants an affidavit stating that the subConsultant does not employ, contract with, or subcontract with an unauthorized alien, and that Consultant is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

13. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.

Section 287.135(2)(a), Fla. Stat., prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a

contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Consultant hereby certifies that Consultant is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Consultant further hereby certifies that Consultant is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Consultant understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Consultant to civil penalties, attorney's fees, and/or costs. Consultant further understands that any contract with City for goods or services of any amount may be terminated at the option of City if Consultant (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of City if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

14. Prohibited Contracting.

Section 287.05701, Fla. Stat. requires notification to vendors in solicitations for procurement of commodities or contractual services, of the local government's prohibition against considering social, political, or ideological interests in government contracting. Pursuant to Section 287.05701, Fla. Stat., the City shall not request documentation of or consider a vendor's social, political, or ideological interests when determining if a vendor is a responsible vendor.

15. Disclosure Requirements for "Foreign Countries of Concern".

CONSULTANT shall comply with the disclosure requirements set forth in section 286.101 (3) (a), Fla. Stat., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to

any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

16. Venue and Jurisdiction.

Notwithstanding any of other provision to the contrary, this Master Agreement and the parties’ actions under this Master Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Master Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Flagler County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

17. PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, EMPLOYEES OF THE CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year last indicated below and the signatories below to bind the parties set forth herein.

CONSULTANT

EXP U.S. SERVICES, INC



Print Name: Patrick Russell, PE

Title: Municipal Project Manager

Date: April 10, 2024

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CITY COMMISSION, City of Bunnell, Florida

Attest:

Kristen Bates, CMC, City Clerk

By: _____
Catherine D. Robinson, Mayor

Date signed by City: _____

Seal:

Approved for form and content by:

Vose Law Firm, City Attorney

EXHIBIT A Fee Schedule

Schedule of Billing Rates
Architectural and Engineering Services
EXP U.S. Services, Inc.
Expires May 1, 2026
Hourly Rate per Classification

Classification

Project Manager (PM)	\$ 358.70
Professional Engineer II (PE2)	\$ 257.73
Professional Engineer I (PE1)	\$ 219.51
Engineer (E)	\$ 189.54
Engineering Technician II (ET2)	\$ 136.75
Engineering Technician I (ET1)	\$ 102.94
Planner (PL)	\$ 153.32
GIS Specialist II (GIS2)	\$ 128.93
GIS Specialist I (GIS1)	\$ 124.18
Administrative (Admin)	\$ 113.37

Reimbursable Expenses:

Special consultant costs, auto usage, travel, outside duplication/blue prints/photo/film, out-of-pocket monies, and other reasonably identifiable costs. Unless specifically stated otherwise in the Project Agreement, reimbursable expense items are in addition to fees stated for services.