

### AGENDA ITEM SUMMARY

<b>Meeting Date:</b>	NOVEMBER 7, 2018
<b>Agenda Category:</b>	CONSENT BUSINESS
<b>Agenda Item Number:</b>	11 D
<b>Subject:</b>	CONTINUING PROFESSIONAL SERVICES AGREEMENT, JACOBS ENGINEERING GROUP, INC. (CITY MANAGER)

<b>Attachments:</b>	Proposed agreement
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<b>Staff Contact:</b>	City Manager Fettrow
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<b>Background:</b>	The City Manager is respectfully requesting approval of a continuing professional services agreement with Jacobs Engineering Group, Inc. The selection and negotiation process prescribed in Section 287.055, Florida Statutes, has been followed. The term of the agreement is for three years, with optional one-year renewals.
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<b>Reference:</b>	
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<b>Suggested Action:</b>	Approve the continuing professional services agreement with Jacobs Engineering Group, Inc.
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**AGREEMENT FOR PROFESSIONAL SERVICES**

**I. PARTIES:**

- A.           **CITY OF ROCKLEDGE (CITY)**  
1600 Huntington Lane  
Rockledge, FL 32955
- B.           **JACOBS ENGINEERING GROUP, INC. (CONSULTANT)**  
777 Main Street  
Fort Worth, TX 76102

**II. PURPOSE:** CITY wishes to obtain professional services on a continuing basis and has considered and followed the selection and negotiation process set forth in Section 287.055, Fla. Stat. CONSULTANT has participated in the selection and negotiation process and is willing to provide the services described in this Agreement to CITY under the terms and conditions set out herein.

**III. DATE:** This Agreement's effective date is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**IV. TERM:** Unless sooner terminated by either party pursuant to the terms and conditions herein, this Agreement shall terminate on the third anniversary of the effective date.

**V. OPTIONS:** The parties may extend the term of this Agreement in one (1) year increments with a written extension signed by both parties. The one (1) year written mutual extensions may be exercised from year to year, as long as both parties desire.

**VI. DEFINITIONS:** The following words and phrases used in this Agreement shall have the meaning ascribed to them unless the context clearly indicates otherwise.

A.   **"Agreement" or "Contract"** shall be used interchangeably and shall refer to this Agreement, as amended from time to time, which shall constitute authorization for the CONSULTANT to provide services approved by Task Authorization by the CITY.

B.   **"Effective Date"** shall be the date set out in Paragraph III above and shall be the date on which this Agreement shall go into effect. The Agreement shall not go into effect until said date.

C. **"Consultant"** shall mean JACOBS ENGINEERING GROUP, INC. and its principals, employees, resident project representatives (and assistants).

D. **"Public Record"** shall have the meaning given in Section 119.011(1), Fla. Stat.

E. **"Reimbursable Expenses"** shall mean the actual expenses incurred by CONSULTANT or CONSULTANT'S independent professional associates and consultants which are directly related to travel and subsistence at the rates, and under the requirements of, Section 112.061, Fla. Stat., or any other actual expenses CITY agrees to reimburse by Task Authorization.

F. **"Work" or "Services"** shall be used interchangeably and shall include the performance of the work agreed to by the parties in a Task Authorization.

G. **"Task Authorization"** shall mean a written document approved by the parties pursuant to the procedure outlined in Paragraph VII of this Agreement, and any amendments thereto approved pursuant to the procedures outlined in Paragraph VIII herein, which sets forth the work to be performed by CONSULTANT under this Agreement.

#### **VII. DESCRIPTION OF SERVICES:**

A. CITY shall make requests of CONSULTANT to perform services on a "Task" basis. The CITY will communicate with CONSULTANT verbally, or in writing, a general description of the task to be performed. The CONSULTANT will generate a detailed Scope of Work document, prepare a Schedule, add a Not-To-Exceed-Budget or Lump Sum Fees to accomplish the task and send the developed "Task Proposal" to CITY. If a site visit by CONSULTANT is needed to generate the scope document, CONSULTANT shall request approval prior to visiting the site. CITY will review the Task Proposal and, if the description is mutually acceptable, the parties will enter into a written "Task Authorization." The Scope of Services generally to be provided by the CONSULTANT through a Task Authorization may include any phases for the services required. These phases are more clearly defined in the attached Exhibit "A." Nothing herein shall be construed to guarantee that CONSULTANT will be assigned a Task.

B. CITY will issue a Notice to Proceed to the CONSULTANT in the form of a CITY purchase order. Upon receipt of the signed Task

Authorization and a written Notice to Proceed from CITY, CONSULTANT shall perform the services set forth in the Task Authorization.

C. Any Task Authorization in effect at the termination of this Agreement shall remain in effect until completion of said Task Authorization, and all of the terms and conditions of this Agreement shall survive until completion of all Task Authorizations.

**VIII. CHANGES IN THE SCOPE OF WORK:**

A. CITY may make changes in the Services at any time by giving written notice to CONSULTANT. If such changes increase (additional services) or decrease or eliminate any amount of work, CITY and CONSULTANT will negotiate any change in total cost or schedule modifications. If CITY and CONSULTANT approve any change(s), the Task Authorization will be modified in writing to reflect the change(s), and CONSULTANT shall be compensated for said service(s) in accordance with the terms of Paragraph X herein. All change orders shall be authorized in writing by CITY'S and CONSULTANT'S designated representative.

B. All of CITY'S said Task Authorizations and amendments thereto shall be performed in substantial accordance with the terms of this Agreement insofar as they are applicable.

**IX. SCHEDULE:**

A. CONSULTANT shall perform services in conformance with the mutually agreed-upon schedule set forth in the negotiated Task Authorization. CONSULTANT shall complete all of said services in a timely manner and will keep CITY apprised of the status of work on at least a weekly basis or as otherwise reasonably requested by CITY. Should CONSULTANT fall behind on the agreed upon schedule, it shall employ such resources so as to comply with the mutually agreed-upon schedule.

B. No extension for completion of services shall be granted to CONSULTANT without CITY'S prior written consent, except as provided in Paragraph XI A herein.

**X. METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF CONTRACTOR:**

A. **General Services.** For basic and additional services performed by CONSULTANT'S principals, employees, and resident project representatives (and assistants) pursuant to Paragraphs VII

and VIII, CITY agrees to pay the CONSULTANT an amount equal to that agreed upon by the parties for a particular Task Authorization.

**B. Additional Services Performed by Professional Associates and Consultants.** For additional Services and Reimbursable Expenses of independent professional associates and consultants employed by CONSULTANT with the prior approval of CITY, to render additional services pursuant to paragraphs VII and VIII, CITY agrees to pay the CONSULTANT an amount equal to that billed CONSULTANT by the independent professional associates and consultants multiplied by a factor of 1.10. Prior to payment by CITY, the CONSULTANT shall submit to CITY a copy of any written invoice received by CONSULTANT from all independent professional associates and consultants which clearly evidences the amount billed by the independent professional associates and consultants for additional services and any reimbursable expenses.

**C. Witness Services.** For witness or expert services rendered by CONSULTANT'S principals, employees, resident project representatives (and assistants), and independent professional associates and consultants on behalf of CITY in any litigation, arbitration, or other legal or interested administrative proceeding in which CITY is a named interested party, CITY agrees to pay the CONSULTANT or independent professional associate or consultant, which is used as a witness or expert, an amount equal to that agreed upon by the party for a particular Task Authorization.

**D. Reimbursable Expenses.** In addition to payments provided in Paragraphs A, B and C above, CITY agrees to pay CONSULTANT the actual cost of all Reimbursable Expenses incurred in connection with any Task Authorization.

**E. Payment.** Upon receipt of a proper invoice from CONSULTANT, CITY agrees to pay the CONSULTANT the invoice amount, providing said amount accurately reflects the terms and conditions of this Agreement and any applicable Task Authorization. Invoices may only be submitted on a monthly basis unless otherwise agreed by CITY. Unless otherwise agreed in writing by CITY, there shall be no other compensation paid to the CONSULTANT and its principals, employees, resident project representatives (and assistants), and independent professional associates and consultants in the performance of work under this Agreement. CITY agrees to make all payments due within thirty (30) days of receipt of a proper invoice delivered by CONSULTANT.

**XI. RIGHT TO INSPECTION:**

A. CITY or its affiliates shall at all times have the right to review or observe the services performed by CONSULTANT.

B. No inspection, review, or observation shall relieve CONSULTANT of its responsibility under this Agreement.

**XII. PROGRESS MEETING:**

CITY'S designated Project Manager may hold periodic progress meetings as required by the CITY and defined in the scope of work for a particular Task Authorization. CONSULTANT'S Project Manager and all other appropriate personnel shall attend such meetings as designated by CITY'S Project Manager.

**XIII. SAFETY:**

Precaution shall be exercised at all times by the CONSULTANT for the protection of all persons, including employees, and property. The CONSULTANT shall comply with all laws, rules, regulations and/or ordinances related to safety and health and shall perform its services under this Agreement in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

**XIV. REASONABLE ACCESS:**

During the term of this Agreement CITY shall grant CONSULTANT reasonable access to the CITY'S premises, records, and files for purposes of fulfilling its obligations under this Agreement.

**XV. INSURANCE:**

**Liability Amounts.** During the term of this Agreement, CONSULTANT shall be responsible for providing the types of insurance and limits of liability as set forth below.

1. Professional Liability: Proof of professional liability insurance shall be provided to CITY for the minimum amount of \$1,000,000 as the combined single limit for each occurrence.

2. CONSULTANT shall maintain comprehensive general liability insurance in the minimum amount of \$1,000,000 as the combined single limit for each occurrence to protect the

CONSULTANT from claims of property damages which may arise from any Services performed under this Agreement whether such services are performed by CONSULTANT or by anyone directly employed by or contracting with the CONSULTANT.

3. CONSULTANT shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$50,000 property damage as the combined single limit for each occurrence to protect the CONSULTANT from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONSULTANT or by anyone directly or indirectly employed by the CONSULTANT.

4. CONSULTANT shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing work for CITY pursuant to this Agreement.

**XVI. SPECIAL REQUIREMENTS:**

A. **Insurance Policies.** Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to CITY thirty (30) days prior to any expiration date. There shall also be a 30-day advance written notification to CITY in the event of cancellation or modification of any stipulated insurance coverage. CITY shall be an additional named insured on all stipulated insurance policies, except workers compensation and professional liability, as its interest may appear from time to time.

B. **Independent Associates and Consultants.** All independent associates and consultants employed by CONSULTANT to perform any services hereunder shall fully comply with the insurance provisions.

**XVII. COMPLIANCE WITH LAWS AND REGULATIONS:**

A. CONSULTANT shall comply with all requirements of federal, state and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of services under this Agreement.

**XVIII. REPRESENTATIONS:**

A. CONSULTANT represents that the services provided hereunder shall conform to all requirements of this Agreement and any Task Authorization, shall be consistent with recognized and sound engineering practices and procedures; and shall conform to the customary standards of care, skill and diligence appropriate to the nature of the services rendered.

B. CONSULTANT represents that all principals, employees and other personnel furnishing such services shall be qualified and competent to perform the services assigned to them.

**XIX. GUARANTEE AGAINST INFRINGEMENT:**

A. CONSULTANT guarantees that all services performed under this Agreement shall be free from claims of patent, copyright and trademark infringement. Notwithstanding any other provision of this Agreement, CONSULTANT shall indemnify, hold harmless and defend CITY, its officers, directors, attorneys, employees, agents, assigns, and servants from and against any and all liability, including expenses, legal or otherwise, for actual or alleged infringement of any patent, copyright, or trademark resulting from the use of any goods, services, or other items provided under this Agreement. Notwithstanding the foregoing, CONSULTANT may elect to provide non-infringing services.

**XX. DOCUMENTS:**

A. **Public Records.** It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONSULTANT and its independent contractors and associates related, directly or indirectly to this Agreement, shall be deemed to be a public record whether in the possession or control of CITY or the CONSULTANT. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the CONSULTANT is subject to the provisions of Chapter 119, Fla. Stat., and may not be destroyed without the specific written approval of the City Manager. Upon request by the CITY, CONSULTANT shall promptly supply copies of said public records to CITY. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the CONSULTANT be open and freely exhibited to CITY for the purpose of examination and/or audit. CONSULTANT also agrees that, to the extent a public record is deemed exempt from public disclosure,



CONSULTANT will maintain the exemption to the extent required by CITY.

B. **Reuse of Documents.** All documents, including but not limited to, drawings, specifications, and data, or programs stored electronically or otherwise, prepared by the CONSULTANT and its independent contractors and associates pursuant to this Agreement or related exclusively to the services described herein may be reused by CITY for any reason or purpose at any time. However, CITY agrees that the aforesaid documents are not intended or represented to be suitable for reuse by CITY or others on any undertaking other than the work outlined in this Agreement. Any reuse for an undertaking other than for the work without verification or adoption by the CONSULTANT or its independent contractors and associates, if necessary, to specific purposes intended will be at the CITY'S sole risk and without liability or legal exposure to the CONSULTANT.

C. CONSULTANT acknowledges that CITY is a Florida Municipal Corporation and is subject to the Florida Public Records Law. CONSULTANT agrees that, to the extent any document produced by CONSULTANT under this Agreement constitutes a Public Record; CONSULTANT shall comply with the Florida Public Records Law.

D. **If the CONSULTANT has questions regarding the application of Chapter 119, Fla. Stat., to the CONSULTANT'S duty to provide public records relating to this Agreement, contact the City Clerk, custodian of public records, at 321-221-7540, Ext. 1.**

**XXI. ASSIGNMENT:**

A. CONSULTANT shall not assign or subcontract this Agreement, any Task Authorization hereunder, or any rights or any monies due or to become due hereunder without the prior written consent of CITY.

B. If upon receiving written approval from CITY, any part of this Agreement is subcontracted by CONSULTANT, the CONSULTANT shall rely on this Agreement and be fully responsible to CITY for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

C. If CITY determines that any subcontractor is not performing in accordance with this Agreement, CITY shall so notify CONSULTANT who shall take immediate steps to remedy the situation.

D. If any part of this Agreement is subcontracted by CONSULTANT prior to the commencement of any work by the

subcontractor, CONSULTANT shall require the subcontractor to provide CITY and its affiliates with insurance coverage as set forth by CITY.

**XXII. TERMINATION: DEFAULT BY CONTRACTOR AND CITY'S REMEDIES:**

A. CITY reserves the right to revoke and terminate this Agreement and rescind all rights and privileges associated with this Agreement, without penalty, at any time with or without cause. Without limitation, the following shall be considered cause for terminating this Agreement and shall constitute a default hereunder.

B. CONSULTANT defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from CITY specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, in which case the CONSULTANT shall have such time as is reasonably necessary to remedy the default, provided the CONSULTANT promptly takes and diligently pursues such actions as are necessary.

C. CONSULTANT is adjudicated bankrupt or makes any assignment for the benefit of creditors or CONSULTANT becomes insolvent, or is unable or unwilling to pay its debts.

D. CONSULTANT has acted grossly negligent, as defined by general and applicable law in performing the services hereunder.

E. CONSULTANT has committed any act of fraud upon CITY.

F. CONSULTANT has made a material misrepresentation of fact to CITY while performing its obligations under this Agreement.

G. CONSULTANT is experiencing a labor dispute which threatens to have a substantial, adverse impact upon performance of this Agreement without prejudice to any other right or remedy CITY may have under this Agreement.

H. CONSULTANT fails to comply with any condition or provision of this Agreement.

I. Notwithstanding the aforementioned, in the event of a default by CONSULTANT, CITY shall have the right to exercise any other remedy CITY may have by operation of law, without limitation, and without any further demand or notice. In addition, in the event of such termination, CITY shall be liable only for the payment of all

unpaid charges, determined in accordance with the provisions of this Agreement, for work properly performed prior to the effective date of termination.

**XXIII. FORCE MAJEURE:**

A. Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes; extraordinary breakdown of or damage to CITY'S affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; order by any regulatory agency; or cause or causes beyond the reasonable control of the party affected; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement.

**XXIV. GOVERNING LAW AND VENUE:**

A. This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida. Venue for any state action or litigation shall be Brevard County, Florida. Venue for any federal action or litigation shall be Orlando, Florida.

**XXV. HEADINGS:**

A. Paragraph headings are for the convenience of the parties only and are not to be construed as part of this Agreement.

**XXVI. SEVERABILITY:**

A. In the event any portion or part of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, the parties shall negotiate an equitable adjustment in the affected provision of this Agreement. The validity and enforceability of the remaining parts of this Agreement shall otherwise be fully enforceable.

**XXVII. WAIVER AND ELECTION OF REMEDIES:**

A. Waiver by either party of any term, condition or provision of this Agreement shall not be considered a waiver of that term, condition or provision in the future.

B. No waiver, consent or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

**XXVIII. THIRD PARTY RIGHTS:**

A. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than CITY and CONSULTANT.

**XXIX. PROHIBITION AGAINST CONTINGENT FEES:**

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

**XXX. ENTIRE AGREEMENT:**

A. This Agreement, including any Task Authorizations and Schedules, Attachments, Appendixes and Exhibits attached hereto, constitute the entire Agreement between CITY and CONSULTANT with respect to the services specified, and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

**XXXI. NO JOINT VENTURE:**

A. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

**XXXII. ATTORNEY'S FEES:**

A. Should either party bring an action to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party the costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal.

**XXXIII. COUNTERPARTS:**

A. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be considered an original Agreement, but such counterparts shall together constitute but one and the same instrument.

**XXXIV. DRAFTING:**

A. CITY and CONSULTANT each represent that they have both shared equally in drafting this Agreement and no party shall be favored or disfavored regarding the interpretation of this Agreement in the event of a dispute between the parties.

**XXXV. NON-DISCRIMINATION:**

A. CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**XXXVI. PUBLIC ENTITY CRIMES:**

A. As provided in Section 287.132 and Section 287.133, Fla. Stat., by entering into this Agreement or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133(3)(1), Fla. Stat.

**XXXVII. CODE REQUIREMENTS:**

A. CONSULTANT and its subcontractors on any project must be familiar with all applicable Federal, State, County, City and Local Laws, Regulations and/or Codes and be governed accordingly as they

will apply to the project and the actions or operations of those engaged in the work or concerning materials used. CONSULTANT shall ask for and receive any required inspections.

**XXXVIII. TESTING:**

A. The CONSULTANT shall be responsible for all tests and testing required by this Agreement unless otherwise specified. All testing shall be done in the presence of a representative of CITY. CITY reserves the right to test all materials, products, installations and equipment.

B. All services shall be in satisfactory operating condition by CONSULTANT prior to final payment, and the CONSULTANT shall furnish a letter addressed to CITY advising that, to the best of its knowledge and belief, the completed work has been installed in accordance with the plans and specifications of this Agreement and that all items are in proper operating condition.

**XXXIX. CITY'S RIGHT TO STOP WORK:**

A. If CONSULTANT, without justification, persistently fails or refuses to perform the work in accordance with the contract documents, CITY shall have the right, but not an obligation, to order the CONSULTANT to stop the work, or any described portion thereof, until the cause for stoppage has been corrected no longer exists, or CITY orders that the work be resumed. In such event, the CONSULTANT shall immediately obey such order. A stop order directive provided under this paragraph shall not entitle the CONSULTANT to an extension of the completion date.

**XL. CITY'S RIGHT TO PERFORM WORK:**

A. If CONSULTANT'S work is stopped by CITY, pursuant to Article XXXIX, or if the CONSULTANT, without justification, persistently fails or refuses to perform the work in accordance with the contract documents, and the CONSULTANT fails within three (3) working days of such stoppage, failure, or refusal, to provide adequate assurance to CITY that the cause of such stoppage, failure, or refusal will be eliminated or corrected, the CITY may, without prejudice to any other rights or remedies the CITY may have against CONSULTANT, proceed to carry out the subject work. In such a situation, an appropriate change order shall be issued deducting from the contract price the reasonable costs of correcting the subject deficiencies, plus compensation for CITY'S CONSULTANT'S additional services and expenses necessitated thereby, if any. If the unpaid

portion of the contract price is insufficient to cover the amount due CITY, CONSULTANT shall pay the difference to CITY.

**XLII. EMERGENCIES:**

All emergencies affecting the safety or protection of persons or the work or property at the site or adjacent thereto, the CONSULTANT, without special instruction or authorization from CITY or the CITY'S authorized representative, is obligated to immediately act to prevent threatened damage, injury or loss. The CONSULTANT shall give CITY'S authorized representative(s) written documentation within three (3) days from the inception of said emergency if the CONSULTANT believes that any significant changes in the work or variations from the contract documents have been caused thereby. If CITY'S authorized representative determines that a change in the contract documents is required because of action taken by the CONSULTANT in response to such an emergency, a change order will be issued to document the consequences of such action.

**XLIII. WAIVER OF JURY TRIAL:**

A. CITY and CONSULTANT hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the Agreement, arising out of, under, or in connection with the construction of the work, or any course of conduct, course of dealing, statement (whether verbal or written) or the actions or inactions of any party.

**XLIV. TAXES:**

A. The CONSULTANT shall pay all applicable sales, consumer-use, and other similar taxes required by law. The CONSULTANT is responsible for reviewing the pertinent State Statutes involving the sales tax and complying with all requirements.

**XLV. ENTIRETY OF CONTRACT:**

A. CITY and CONSULTANT agree that this Agreement sets forth the entire contract between the parties and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Paragraph VIII - Changes in the Scope of Work.

**XLV. NOTICE:**

**CONSULTANT**

Jacobs Engineering Group, Inc.  
777 Main Street  
Fort Worth, Texas 76102  
Phone: (407)650-2123  
Attn: Cory Hooper, PE

**CITY**

City of Rockledge  
c/o City Hall  
1600 Huntington Lane  
Rockledge, Florida 32955  
Phone: (321)221-7540

Either party may change the notice address by providing the other party written notice of the change.

**XLVI. SOVEREIGN IMMUNITY:**

A. Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the CITY'S right to sovereign immunity under Section 768.28, Fla. Stat., or other limitations imposed on the CITY'S potential liability under state or federal law. As such, CITY shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, CITY shall not be liable for any claim or judgment, or portion thereof, to any one person for more than one hundred thousand dollars (\$100,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivision arising out of the same incident or occurrence, exceeds the sum of two hundred thousand dollars (\$200,000.00). This paragraph shall survive termination of this Agreement.

B. To the maximum extent permitted by law, neither party shall be liable for any special, indirect or consequential damages, whether such damages arise out of breach of contract or warranty, tort including negligence, strict or statutory liability, or any other cause of action.

**XLVII. CORPORATE REPRESENTATIONS:**

A. CONSULTANT hereby represents and warrants to CITY the following:



1. CONSULTANT is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida, and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.

2. The undersigned representative of CONSULTANT has the power, authority and legal right to execute and deliver this Agreement on behalf of CONSULTANT.

**XLVIII. INDEMNIFICATION:**

A. CONSULTANT shall indemnify and hold harmless the CITY and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement.

B. Pursuant to Section 558.0035, Fla. Stat., an individual employee or agent of CONSULTANT may not be held individually liable for negligence.

**IN WITNESS WHEREOF**, the parties hereto caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

**CITY:**

**CONSULTANT:**

**CITY OF ROCKLEDGE**

**JACOBS ENGINEERING GROUP, INC.**

By: \_\_\_\_\_  
**CHAIRMAN**

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

ATTEST:

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

\_\_\_\_\_  
Lisa Nicholas, City Clerk

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**CONSULTANT AGREEMENT**

The Scope of Services to be provided by the CONSULTANT shall include all phases \_\_\_\_\_ services. The CONSULTANT has already been pre-qualified by CITY to perform the following: