

10122

**AGREEMENT  
BETWEEN  
THE CITY OF JACKSONVILLE  
AND  
DRMP, INC.  
FOR**

**MISCELLANEOUS SURVEY SERVICES ANNUAL CONTRACT**

**THIS AGREEMENT** is made and entered into in duplicate this 15 day of June, 2015, by and between the CITY OF JACKSONVILLE, a municipal corporation in Duval County, Florida (hereinafter the "CITY"), and DRMP, INC., a Florida profit corporation with an office at 8001 Belfort Parkway, Suite 200, Jacksonville, Florida 32256 (hereinafter the "CONSULTANT"), for miscellaneous survey services (hereinafter the "Project").

**RECITALS:**

**WHEREAS**, CITY prepared a Request for Proposals (P-31-14) for the Project and solicited proposals from interested firms; and

**WHEREAS**, CONSULTANT submitted a proposal to CITY and was selected by CITY as the best and most qualified applicant; and

**WHEREAS**, CITY and CONSULTANT have negotiated mutually satisfactory terms for the execution of such services; now therefore

**IN CONSIDERATION** of the premises and of the mutual covenants and agreements hereinafter contained, CITY hereby engages CONSULTANT for Professional Services for the Project in accordance with the following:

## SECTION O

### 0.1. INCORPORATION OF RECITALS

The above-stated recitals are true and correct and are incorporated herein and made a part hereof by this reference.

## SECTION 1 BASIC SERVICES OF THE CONSULTANT

### 1.01. STATEMENT OF CONSULTANT SERVICES

CONSULTANT shall furnish all services, documents, drawings, and other matters called for in this Agreement, as well as those contained in the "Scope of Services", attached hereto as **Exhibit A** and made a part hereof by this reference. If any services, functions, or responsibilities not specifically described in this Agreement and/or the Scope of Services are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the Scope of Services to the same extent and in the same manner as if specifically described in this Agreement. CONSULTANT shall be responsible for providing the equipment, supplies, personnel (including management, employees, and training), and other resources as necessary to provide the Services. CONSULTANT accepts the special relationship established between itself and CITY by this Agreement. CONSULTANT covenants with CITY that it is an expert in the design of the Project and will cooperate with Program Managers, Construction Managers, CITY representatives, and others in fostering the interests of CITY. CONSULTANT shall employ sound business administration and superintendence to complete the Project in a manner consistent with the best interests of CITY.

## **1.02. PERIOD OF SERVICE**

This Agreement shall commence on the day and year first above written and shall continue and remain in full force and effect thereafter until July 31, 2016, or earlier termination as provided in Section 5.01 hereof. This Agreement may be renewed upon satisfactory performance of CONSULTANT in the sole discretion of CITY for up to two (2) additional one (1) year periods upon provisions, terms, and conditions mutually acceptable to the parties.

## **1.03. COMMENCEMENT OF WORK**

1.03.01 CONSULTANT shall not commence work on the Project without a prior written Notice to Proceed issued by CITY.

1.03.02 The giving of a written Notice to Proceed shall be a condition precedent to any liability attaching to CITY, whether under the terms of this Agreement or otherwise. As part of the consideration for the execution of this Agreement, CONSULTANT hereby releases CITY from any claim for damages, whether in contract, tort, or otherwise, in the event that no Notice to Proceed is ever issued pursuant to this Agreement.

## **1.04. GENERAL REQUIREMENTS**

CONSULTANT shall serve as CITY's professional representative on the Project and shall consult with CITY during the performance of its services. CONSULTANT warrants that it now has or will secure at its own expense all personnel and facilities required to perform all services under this Agreement. CONSULTANT shall not have any direct or indirect contractual relationship with any officer or employee of CITY which will conflict with its ability to perform hereunder. All personnel assigned to the work shall be fully qualified and all facilities employed shall be adequate for the work required. CONSULTANT shall prosecute the work under the full-time direction of one or more of its senior officers or a responsible representative who shall be acceptable to CITY. CONSULTANT shall designate in writing to CITY such

representative who shall be authorized to act on behalf of CONSULTANT on any matter covered by this Agreement.

1.04.01. All services performed by CONSULTANT shall be executed in cooperation and coordination with CITY through its Project Manager, and in the performance of such services CONSULTANT shall:

1.04.01.01. Maintain close liaison and cooperation with CITY during performance of the work hereunder to obtain agreement and coordination of the various phases of work contained herein.

1.04.01.02. Attend all meetings and conferences as arranged and required by CITY during the progress of the work hereunder in order to establish Project criteria, to review CITY and State standards, to secure agreement upon the comprehensive and detailed basis of CONSULTANT's services, and to discuss any other matters relating to the work.

1.04.01.03. Provide CITY with written memoranda to confirm and record the understandings and agreements resulting from meetings and conferences related to the Project.

1.04.01.04. Provide CITY with schedules, including starting dates and contemplated completion dates, for the work hereunder and periodic progress reports, such schedules and progress reports being in format and detail as CITY may require.

1.04.01.05. Provide progress updates as required by the Project Manager.

1.04.02. In addition to Project delivery requirements otherwise specified, CONSULTANT shall deliver all final drawings to CITY in electronic form using either a standard .dxf or .dwg format and in layers as prescribed by CITY's Project Manager. Further, all

survey data and other horizontal control and location shall be referenced to State Plane Coordinates, NAD 83, and all vertical control and elevations shall be referenced to National Geodetic Vertical Datum (NGVD).

**1.05. STUDY (CONCEPTUAL DESIGN) PHASE**

If the Study (Conceptual Design) Phase is included under Section 3 hereof, CONSULTANT shall:

1.05.01. Consult with CITY to determine CITY's requirements for the Project and to establish general design criteria and standards for use on the Project.

1.05.02. Review and study any reports, documents, or studies previously prepared by and/or for CITY.

1.05.03. Coordinate services performed by sub-consultants and act as CITY's technical representative in connection therewith.

1.05.04. Interpret and evaluate information obtained from such data and other investigations.

1.05.05. Evaluate information on conditions to be encountered at the site essential for design and construction purposes and investigate all reasonably available information necessary to accurately indicate existing and proposed locations of underground utilities and facilities.

1.05.06. Review the provisions of part 12, Zoning Code (Landscape and Tree Protection Regulations) and determine possible impacts on the Project. A tree survey is not required during this phase.

1.05.07. Prepare a study/conceptual design and a preliminary cost estimate and submit copies thereof to CITY as may be required by the Scope of Services, attached hereto as **Exhibit A.**

1.05.08. Assist CITY by preparing for and conducting a Town Meeting at the end of the Study Phase.

**1.06. FINAL DESIGN (CONSTRUCTION DOCUMENTS AND BIDDING) PHASE**

If the Final Design (Construction Documents and Bidding) Phase is included under Section 3 hereof, CONSULTANT shall:

1.06.01. Prepare surveys, including location of trees and other investigations as needed for the design of the Project, and verify as to accuracy, reliability, and margin of error before any design work commences.

1.06.02. Submit maps or site plans of real property which identify all parcels of land or easements to be acquired along with a legal description of each such parcel not later than 60% submittal stage.

1.06.03. Prepare engineering data and required engineering documents in order to make application for all regulatory permits, including tree removal and replacement, and actively pursue permits and approvals from such authorities as have jurisdiction over the Project.

1.06.04. Prepare and furnish design and construction documents as required by the Scope of Services to CITY for review and approval. Any changes, refinements, or modifications which CITY may require after each review shall be completed prior to proceeding further with design and construction documents.

1.06.05. Each submittal shall contain a statement signed by the Engineer that the Engineer has reviewed and agrees with the information submitted from the Engineer's subconsultants.

1.06.06. Advise CITY of any adjustment of the cost estimate for the Project caused by changes in scope, design requirements, construction costs, or other matters, and furnish a revised cost estimate for the Project based on such.

1.06.07. Upon approval by CITY of 90% construction documents, prepare for incorporation in the Contract Documents final construction drawings and plans (hereinafter the "Drawings") to show work to be performed by contractors on the Project and technical provisions (hereinafter the "Specifications"). Final drawings, as required by the Scope of Services, with budget cost estimates and supporting documents, shall be prepared by CONSULTANT and submitted to CITY for its approval. A proposed complete draft of Specifications, as required by the Scope of Services, shall be prepared by CONSULTANT and submitted to CITY for its approval. All unit priced bid quantities submitted shall be signed and sealed for accuracy.

1.06.08. After approval of all Drawings and Specifications by CITY, CONSULTANT shall produce, assemble, and deliver to CITY Drawings and Specifications as required by the Scope of Services, together with three (3) copies of CONSULTANT's cost estimate and the original documents if contract administration is not to be performed by CONSULTANT.

1.06.09. Assist CITY concerning interpretation of the intent of the Contract Documents during the bidding/negotiation period.

1.06.10. Evaluate all bids submitted, including, without limitation, compliance with Specifications, costs, ability of the bidder to perform the work, and other factors.

1.06.11. Recommend to CITY the lowest responsible bidder.

1.06.12. At CITY's option and at no additional cost to CITY, modify the Drawings and Specifications so as to reduce the cost of the Project to not more than an amount approved by CITY if the lowest responsible bid for the Project exceeds CONSULTANT's latest cost estimate as approved by CITY. All such modifications shall be subject to the approval of CITY. Following such approval, CONSULTANT shall assist CITY in rebidding the Project at no additional cost to CITY.

#### **1.07. CONTRACT ADMINISTRATION PHASE**

If the Contract Administration Phase is included under Section 3 hereof, CONSULTANT shall:

1.07.01. Represent CITY as its Contract Administrator, including, without limitation, interpreting Drawings and Specifications and issuing instructions to the contractor performing construction work.

1.07.02. Make periodic visits to the Project site for not less than four hours every week unless specified otherwise while actual construction is in progress at intervals appropriate to the various stages of construction as CONSULTANT, as an experienced and qualified professional, deems necessary in order to observe and determine if the work is proceeding in substantial accordance with the Contract Documents. On the basis of such on-site visits, CONSULTANT shall endeavor to protect CITY against defects and deficiencies in the work and shall, within one week following each visit, submit a written report to CITY detailing CONSULTANT's observations and advising of any work observed that fails to conform to the



Contract Documents or which appears to be deficient, defective, or otherwise not in accordance with good engineering or construction practices. CONSULTANT shall take reasonable steps necessary to require that the contractor corrects such work at the contractor's expense.

1.07.03. Check all shop drawings, diagrams, illustrations, brochures, catalog data, schedules, samples, the results of tests and inspections, and other data which the contractor is required to submit for the purpose of verifying acceptability in accordance with the requirements and information given in the Contract Documents, and assemble maintenance and operating instructions, schedules, guarantees, bonds, and certificates of inspection as required in construction contracts related to the Project.

1.07.04. Based on CONSULTANT's on-site observations as an experienced and qualified professional and on its review of the contractor's applications for payment and supporting data, recommend to CITY approval or disapproval of the contractors' applications for payment.

1.07.05. Make an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been fully completed in substantial accordance with the Contract Documents and whether the contractor has fulfilled all of its obligations thereunder so that CONSULTANT may recommend approval in writing of final payment to the contractor.

1.07.06. Receive, review, and approve Record drawings prepared by the contractor for compliance with the requirements of the Contract Documents.

1.07.07. Take all steps necessary for the finalization of Record drawings within the one-month period following the date of final acceptance of the Project by CITY. Such period includes the time required by the contractor to prepare, check, and submit its Record construction

data and deliver same to the CONSULTANT to review, approve, and forward Record as-built drawings to CITY. Should said as-built drawings not be approved by CITY, CONSULTANT shall take whatever steps are necessary to correct the as-built drawings and resubmit them to CITY until such are approved.

1.07.08. Participate in and conduct a warranty inspection eleven (11) months after the Project has been completed.

#### **1.08. RESIDENT PROJECT REPRESENTATION**

If Resident Project Representation is included under Section 3 hereof, CONSULTANT shall furnish not less than one Resident Project Representative on the Project site at all times that construction work is in progress to observe and inspect the work in order to further protect CITY from defects and deficiencies in such work and to better determine that the work is proceeding in accordance with the Contract Documents.

#### **1.09. TECHNICAL SUPPORT SERVICES DURING CONSTRUCTION**

If Technical Support Services During Construction is included under Section 3 hereof, CONSULTANT shall:

1.09.01. Review shop drawings, diagrams, illustrations, brochures, catalog data, schedules, samples, the results of tests and inspections, and other data which the contractor is required to submit for the purpose of verifying acceptability in accordance with the requirements given in the Contract Documents.

1.09.02. Make periodic visits to the Project site during construction as requested by the Project Manager, provide written reports when requested, and participate in Substantial Completion, Final Completion, and Eleven (11) Month Warranty Inspections when requested.

1.09.03. Provide technical assistance to CITY when requested.

**SECTION 2  
THE CITY'S RESPONSIBILITIES**

CITY shall:

- 2.01. Advise as to its requirements for the work.
- 2.02. Assist CONSULTANT by placing at its disposal all available information pertinent to the site of the work which CITY may have.
- 2.03. Make reasonable efforts to obtain access on both public and private land as necessary for CONSULTANT to perform its work under this Agreement.
- 2.04. Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by CONSULTANT and render written decisions pertaining thereto within a reasonable time so as not to delay the work of CONSULTANT. CITY's review of any documents prepared by CONSULTANT shall be solely for the purpose of determining whether such documents are generally consistent with CITY's construction program and intent. No review of such documents shall relieve CONSULTANT of its ultimate responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.
- 2.05. Advertise for proposals from bidders, open the proposals at the appointed time and place, and pay for all costs incident thereto.
- 2.06. Provide such legal, accounting, and insurance counseling services as may be required for the work, and such auditing services as CITY may require for its own benefit.
- 2.07. Designate in writing a person to act as CITY's Project Manager with respect to the work to be performed under this Agreement who shall have complete authority to transmit instructions, receive information, and interpret and define CITY's policies and decisions with respect to the work covered by this Agreement.

2.08. Assist CONSULTANT in securing approval of all governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the work.

2.09. Furnish or direct CONSULTANT to provide at CITY's expense any necessary additional services in connection with the work that may be required by CITY, provided that any such direction shall be given by CITY to CONSULTANT in writing and shall provide a maximum indebtedness for such services.

### **SECTION 3 PAYMENT FOR SERVICES OF CONSULTANT**

3.01. CITY shall pay to CONSULTANT in increments proportional to satisfactory completion and as actually, timely, and faithfully rendered:

3.01.01. For Services, as specified in Section 1 of this Agreement and as described in **Exhibit A**, the fees detailed in the Contract Fee Summary, attached hereto as **Exhibit B** and by this reference made a part hereof. Payment of the fees is contingent upon CONSULTANT's final completion of the work authorized by Notices to Proceed in the form of individual purchase orders with not-to-exceed amounts applicable thereto as specified in this Agreement and in the exhibits attached hereto which constitute the Scope of Services. Such completion of the work must be acceptable to and accepted by CITY. Such acceptability to, and acceptance by, CITY may not be unreasonably denied.

3.02. RESERVED.

3.03. CONSULTANT shall submit invoices for payment or reimbursement under this subsection on an "as incurred" basis. Such invoices shall be combined with CONSULTANT's regular invoices as set forth in Subsection 3.04 hereof. The cost of services provided by

CONSULTANT shall be paid at the rates (including direct labor, indirect costs, and profit) shown in the Contract Fee Summary. The cost of services provided to CONSULTANT by others shall be reimbursed at the invoiced amount without markup by CONSULTANT. Travel expenses, if provided for as a reimbursable expense in **Exhibit B**, shall be reimbursed only to the extent provided by Chapter 106, Part 7, *Ordinance Code*. Travel expenses not specifically covered by said chapter shall be reimbursed only to the extent provided by the uniform policies and practices of CITY.

3.04 CONSULTANT shall submit written invoices not more often than monthly in such form and containing such documentation as reasonably required by CITY's Project Manager in order to establish charges and to enable compensation therefor by CITY as soon as practicable upon receipt, review, and approval of each such invoice. Each such invoice shall include the amount of payment requested, the amount previously paid, the total contract value, the percent completed since the last invoice, the total percent completed to date, and any other such information as may be reasonable and necessary to secure the written approval of the invoice by CITY's Project Manager. Each invoice shall contain a statement that it is made subject to the provisions and penalty of Section 837.06, Florida Statutes.

3.05. Each and every payment by CITY to CONSULTANT shall be expressly subject to the submittal of written invoices as provided in Section 3.03.

3.06. This Agreement is a continuing contract. City does not guarantee any work or any quantities to CONSULTANT under this Agreement; accordingly, the parties agree that CITY's financial obligation under this Agreement is ZERO AND 00/100 DOLLARS (\$0.00). Financial obligations of CITY, if any, and encumbrances of lawfully appropriated funds shall be created by subsequent purchase orders in variable amounts subject to a limit up to but not-to-exceed a

maximum indebtedness of FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00). Such purchase orders shall be binding upon the parties hereto. Such purchase orders shall be considered as "Notices to Proceed" with work or delivery or provision of quantities under this Agreement. CONSULTANT shall not commence work or deliver or provide quantities under this Agreement unless and until it receives a written Notice to Proceed in the form of a purchase order.

#### **SECTION 4 ADDITIONAL SERVICES OF CONSULTANT**

##### **4.01 AUTHORIZED ADDITIONAL SERVICES**

If authorized in writing by CITY, CONSULTANT shall furnish or obtain from others additional services of the following types, which shall be paid for by CITY, provided that such services are clearly consistent with the original Request for Proposals and that such services are provided for by written amendment to this Agreement.

4.01.01. Prepare documents for alternate bids requested by CITY.

4.01.02. Provide additional or extended services during construction made necessary by: (1) work damaged during construction; (2) defective or neglected work of the construction contractor; and, (3) acceleration of the work schedule involving services beyond normal working hours.

4.01.03 Prepare to serve and serve as an expert witness for CITY in any trial, hearing, or other judicial or quasi-judicial or administrative proceeding at customary, reasonable, and usual rates to be established prior to serving as an expert witness.

4.01.04. Subsequent to completion of final design, revise previously approved Drawings and/or Specifications or any portions thereof that the CITY desires changed to accommodate changed conditions.

4.01.05. Provide additional services in connection with the Project, including services normally furnished by the CITY and services not otherwise provided for in this Agreement.

## **SECTION 5 GENERAL CONDITIONS**

### **5.01. TERMINATION AND SUSPENSION**

5.01.01. This Agreement shall continue and remain in full force and effect as to all of its terms, conditions, and provisions as set forth herein until and unless CITY shall give written notice to CONSULTANT of its desire to terminate this Agreement, with or without cause, on a specified time and date thereafter. Such written notice to terminate this Agreement shall be given no less than thirty (30) days prior to the date this Agreement shall be so terminated, with twenty-four hours' notice in the event that funds become unavailable to CITY for any reason whatsoever. In the event of any such termination, CONSULTANT shall be paid by CITY for all services actually, timely, and faithfully rendered up to receipt of the notice of termination, and thereafter until the date of termination, CONSULTANT shall be paid only for such services as are specifically authorized in writing by CITY.

5.01.02. This Agreement or any portion hereof may be suspended from time to time for various periods of time in the event that any Project proposed hereunder is delayed, postponed, or otherwise adversely affected permanently or temporarily by action of CITY. In the event of any such suspension, CONSULTANT shall be paid for all services actually, timely, and

faithfully rendered up to the date of suspension, and for all services so rendered after cessation of the suspension and resumption of the services.

5.01.03. If CITY fails to issue a written Notice to Proceed in the form of a purchase order to CONSULTANT within six (6) calendar months from the date first above written or if CITY suspends work under this Agreement for a period of at least six (6) calendar months once work has commenced, CONSULTANT shall have the right at its option to terminate this Agreement by giving written notice thereof to CITY. The giving of such written notice to terminate by CONSULTANT shall eliminate all further rights and obligations of the parties hereunder other than CONSULTANT's obligations under Sub-Sections 5.04, 5.05, 5.07, 5.08, 5.09 and 5.12.

## **5.02. OWNERSHIP OF DOCUMENTS**

CONSULTANT shall deliver to CITY for approval and acceptance, and before being eligible for final payment of any amounts due: all drawings, maps, and plats printed on 20 lb. vellum or mylar; the originals of specifications; the approved as-built drawings if CONSULTANT has performed contract administration; true copies of all computations, survey notes, and diaries; and, copies of memoranda and pertinent correspondence pertaining to the work (including a copy of all computer disks containing any of the aforementioned data). CONSULTANT shall provide a copy of all CADD work on computer disks in the Autocad drawing format or the transfer DFX format. CADD work shall conform with the current CADD standards of the Engineering Division. All such documents shall become the property of CITY. CONSULTANT shall not be liable for any re-use of such documents for other than the specific purpose intended without CONSULTANT's written verification or adaptation thereof.



### **5.03. ESTIMATES**

Since CONSULTANT has no control over the cost of labor, materials, or equipment, or over contractor's methods of determining prices, or over competitive bidding or market conditions, the estimates of construction costs provided for herein are to be made on the basis of CONSULTANT's experience and represent its best judgment as a professional familiar with the construction industry. CONSULTANT does not guarantee that bids will not vary from its cost estimates and has no liability other than as set forth in Section 1.06.12 of this Agreement in the event that bids do so vary.

### **5.04. INDEMNIFICATION**

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

5.04.02. All indemnification provisions contained in this Section 5.04 are separate and apart from, and are in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This section 5.04 relating to Indemnification shall survive the term of this Agreement and any holdover and/or Agreement extensions hereto, whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

**5.05. INSURANCE**

5.05.01 Without limiting its liability under this Agreement, CONSULTANT shall procure and maintain during the life of this Agreement insurance of the types and in amounts no less than those stated below:

<b>Schedule</b>	<b>Limits</b>	
<b>Workers' Compensation</b>	Florida Statutory Coverage	
Employer's Liability (including appropriate federal acts)	\$100,000	Each Accident
	\$500,000	Disease Policy Limit
	\$100,000	Each Employee/Disease

CONSULTANT's Workers' Compensation insurance shall cover CONSULTANT (and to the extent its subcontractors of any tier are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI) without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, and any restrictive NCCI endorsements which under an NCCI filing must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law where appropriate.

<b>Commercial General Liability</b>	\$1,000,000	Per Occurrence
Premises-Operations	\$2,000,000	Aggregate
Products-Completed Operation		
Contractual Liability		
Independent Contractors		



maintenance of said insurance shall be furnished to CITY. CONSULTANT shall provide an endorsement issued by the insurer to provide CITY thirty (30) days' prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal.

5.05.04. Anything to the contrary notwithstanding, the liabilities of CONSULTANT under this Agreement shall survive and not be terminated, reduced, or otherwise limited by any expiration or termination of insurance coverages. Neither approval of nor failure to disapprove insurance furnished by CONSULTANT shall relieve CONSULTANT or its subcontractors from the responsibility to provide insurance as required under this Agreement.

#### **5.06. SUCCESSORS AND ASSIGNS**

CITY and CONSULTANT each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement, and any assignment or transfer by CONSULTANT of its interests in this Agreement without the written consent of CITY shall be void. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of CITY, nor shall it be construed as giving any right or benefit hereunder to anyone other than CITY or CONSULTANT.

#### **5.07. NON-DISCRIMINATION PROVISIONS**

5.07.01. CONSULTANT warrants that it has adopted and shall maintain a policy of non-discrimination against an employee or applicant for employment on account of race, religion, sex, color, national origin, age, or handicap which policy applies to all areas of employee relations throughout the term of this Agreement.

5.07.02. On written request, CONSULTANT shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and

records by CITY's Executive Director of the Community Relations Commission for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement. CONSULTANT shall not be required to produce for inspection any records covering periods of time more than one (1) year prior to the date of this Agreement.

5.07.03. CONSULTANT agrees that if any of the obligations of this Agreement are to be performed by a subcontractor, then the provisions of the above two paragraphs shall be incorporated into and become a part of the subcontract.

**PROMPT PAYMENT TO SUBCONSULTANTS, ETC.**

5.08.01 Generally. When CONSULTANT receives payment from CITY for labor, services, or materials furnished by subconsultants, subcontractors, and suppliers hired by CONSULTANT, CONSULTANT shall remit payment due (less proper retainage) to those subconsultants, subcontractors, and suppliers within fifteen (15) calendar days after CONSULTANT's receipt of payment from CITY. Nothing herein shall prohibit CONSULTANT from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subconsultants, subcontractors, and suppliers. In the event of such a dispute, CONSULTANT may withhold the disputed portion of any such payment only after CONSULTANT has provided notice to CITY and to the subconsultant, subcontractor, or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered to CITY and the subconsultant, subcontractor, or supplier within ten (10) calendar days after CONSULTANT's receipt of payment from CITY. CONSULTANT shall pay all undisputed amounts due within the time limits imposed by this section.

5.08.02. Jacksonville Small Emerging Business (“JSEB”) and Minority Business Enterprise (“MBE”) Participation. Notwithstanding Chapter 126, Part 6, *Ordinance Code*, CONSULTANT shall pay all contracts awarded with certified JSEB’s and certified MBE’s, as defined therein, their pro-rata share of their earned portion of any progress payments made by CITY under this Agreement within seven (7) business days after CONSULTANT’s receipt of payment from CITY (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB or certified MBE at the time of payment. As a condition precedent to progress and final payments to CONSULTANT, CONSULTANT shall provide to CITY with its requisition for payment, documentation that sufficiently demonstrates that CONSULTANT has made proper payments to its certified JSEB’s or certified MBE’s from all prior payments that CONSULTANT has received from CITY. CONSULTANT shall not unreasonably withhold payments to certified JSEB’s or certified MBE’s if such payments have been made to CONSULTANT. If CONSULTANT withholds payment to its certified JSEB’s or certified MBE’s, which payment has been made by CITY to CONSULTANT, CONSULTANT shall return said payment to CITY. CONSULTANT shall provide notice to CITY and to the certified JSEB or certified MBE whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to CITY and to the certified JSEB or certified MBE within five (5) calendar days after CONSULTANT’s receipt of payment from CITY. CONSULTANT shall pay all undisputed amounts due within the time limits imposed by this section. The failure to pay undisputed amounts to the certified JSEB or certified MBE within seven (7) business days after CONSULTANT receives payment from CITY shall be a breach of contract, compensable by 1% of the outstanding invoice’s being

withheld by CITY, not as a penalty but as liquidated damages for additional and extra contract administration by CITY. Continued failure to adhere to this section may be cause for termination of the Agreement.

5.08.03. The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between CITY and any subconsultant, subcontractor, JSEB, MBE, or any third-party or create any CITY liability for CONSULTANT's failure to make timely payments hereunder. However, CONSULTANT's failure to comply with these Prompt Payment requirements shall constitute a material breach of CONSULTANT's contractual obligations to CITY. As a result of said breach, CITY, without waiving any other available remedy it may have against CONSULTANT, may (i) issue joint checks and (ii) charge CONSULTANT a 0.2% daily late payment interest charge or the other charges specified in Chapter 126, *Ordinance Code*, for JSEB's and MBE's, and Chapter 218, Florida Statutes, for non-JSEB's or non-MBE's, whichever is greater.

#### **5.09. RETENTION OF RECORDS**

CONSULTANT and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred in the work and shall make such materials available at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under this Agreement for inspection, copying, and/or audit by CITY.

#### **5.10. COMPLIANCE WITH STATE AND OTHER LAWS**

In the provision of the Services, CONSULTANT must comply with applicable federal, state, and local laws, rules, regulations, and ordinances as the same exist and may be amended from time to time. Such laws, rules, regulations, and ordinances shall include, but are not limited

to, Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). Such laws, rules, regulations, and ordinances must also include, but are not limited to, obtaining and maintaining all licenses and certifications that are required to perform the Services contemplated in this Agreement in the City of Jacksonville, State of Florida. If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this section shall be incorporated into and become a part of the subcontract.

#### **5.11. SETTLEMENT OF CLAIMS**

In any case where CONSULTANT deems that extra compensation is due it for services or materials not clearly covered in this Agreement or not ordered in writing by CITY as an additional service, CONSULTANT shall notify CITY in writing before it begins the work on which it bases the claim. CONSULTANT shall not commence such work without prior written authorization from CITY. If such authorization is not previously given or the claim is not separately and strictly accounted for, CONSULTANT hereby agrees to waive the claim for such extra compensation. However, such notice or accounting shall not in any way be construed as proving the validity of the claim. Any dispute not otherwise settled shall be resolved by Executive Order 98-01.

#### **5.12. ACCURACY OF WORK**

5.12.01. CONSULTANT shall be responsible for the accuracy of its work, including work by any subcontractors, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of CONSULTANT or subcontractors without additional compensation. Acceptance of the work by CITY shall not relieve CONSULTANT of the



responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

5.12.02. At any time during the construction of the Project provided for by the Contract Documents or during any phase of work performed by others based on data furnished by CONSULTANT under this Agreement, CONSULTANT shall confer with CITY for the purposes of interpreting the information furnished and/or correcting any errors and/or omissions made by CONSULTANT. CONSULTANT shall prepare all drawings or data to correct its errors and/or omissions without added compensation even though final payment may have already been received therefor.

5.12.03. CONSULTANT shall be and shall remain liable, in accordance with applicable law, for all damages to the CITY caused by CONSULTANT's breach of contract or its negligent performance of any of the services furnished under this Agreement. CONSULTANT shall not be responsible for any time delays in the Project caused by circumstances beyond CONSULTANT's control.

### **5.13. PUBLIC UTILITIES AND PERMITTING AUTHORITIES**

Where privately, publicly, or cooperatively owned utility companies will require re-arrangements in connection with the proposed construction and when certain permits will be required for construction, CONSULTANT shall make the necessary contacts and confer with the owners of such utilities regarding the requisite revisions in their facilities, apprising CITY of the results of all such contacts. CONSULTANT shall make no commitments with utilities or permitting authorities which are binding upon CITY. CITY shall conduct all negotiations with public utilities and authorities. However, CONSULTANT shall participate in such negotiations at the request of the CITY.

**5.14. PROHIBITION AGAINST CONTINGENT FEES**

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for 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 CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

**5.15. TRUTH IN NEGOTIATION CERTIFICATE**

CONSULTANT understands and agrees that execution of this Agreement by CONSULTANT shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes. Pursuant to such certificate, CONSULTANT hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, CONSULTANT agrees that the compensation hereunder shall be adjusted to exclude any significant sums where CITY determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

**5.16. INDEPENDENT CONTRACTOR**

In the performance of this Agreement, CONSULTANT shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of CITY. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement.

**5.17. CONSULTANT DEFINED**

As used herein, the term "CONSULTANT" shall include, but not be limited to, DRMP, Inc., its officers, employees, agents, subcontractors, and other persons, firms, partnerships, corporations, or other entities working for or on behalf of CONSULTANT.

**5.18. CONSTRUCTION**

Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement.

**5.19. ORDER OF PRECEDENCE**

In the event of any conflict between the provisions of this Agreement and those of the exhibits attached hereto or amendments, the priority shall be: 1) fully executed amendments, 2) the provisions of this Agreement, and 3) exhibits in decreasing order of precedence.

**5.20. AMENDMENTS**

This Agreement may be amended only by written instrument specifically referring to this Agreement and executed with the same formalities as this Agreement.

### **5.21. ETHICS PROVISION FOR PROFESSIONAL SERVICES**

CONSULTANT by affixing its signature to this Agreement represents that it has reviewed the provisions of the Jacksonville Ethics Code contained in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code contained in Chapter 126, *Ordinance Code*.

### **5.22. COOPERATION WITH COUNSEL FOR CITY**

CONSULTANT acknowledges that CITY is represented by the Office of General Counsel. During the term of this Agreement, it may be necessary to attend meetings or participate in telephone calls or discussions with counsel for CITY for issues related to the Project. CONSULTANT may also have its counsel at such meetings and it is agreed by the parties that neither side will claim that a conflict exists or that counsel may not represent its client on the basis of any such meeting, duty, or conference.

### **5.23. SEVERABILITY**

Should any provision of this Agreement be deemed to be unenforceable or not legal by a court of competent jurisdiction, the remaining provisions of the Agreement shall remain in full force and effect.

### **5.24. ENTIRE AGREEMENT**

This Agreement represents the entire agreement by and between the parties with respect to the Project. No representation, understanding, statement, agreement, course of conduct, or course of action by the parties or by their representatives that is not in this Agreement shall be binding. This Agreement may be amended only by written instrument, signed by the authorized representatives of the parties.

**5.25. COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of such counterparts together shall constitute one and the same instrument.

**5.26. GOVERNING LAW AND VENUE**

This Agreement shall be governed and interpreted exclusively under the laws of the State of Florida. Venue for litigation under this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

**5.27. NON WAIVER**

Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, CITY's payment for the services or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

**[Remainder of page left blank intentionally. Signature page follows immediately.]**

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

**ATTEST:**

**CITY OF JACKSONVILLE**

By *James R. McCain, Jr.*  
James R. McCain, Jr.  
Corporation Secretary

By *Alvin Brown*  
Alvin Brown, Mayor



Cleveland Ferguson III  
Deputy Chief Administrative Officer  
For: Mayor Alvin Brown  
Under Authority of:  
Executive Order No. 2015-01

**DRMP, INC.**

**WITNESS:**

By *Lyndie Knowles*  
Signature

By *Glenn J. Lusink*  
Signature

Lyndie Knowles  
Type/Print Name

Glenn J. Lusink, PSM  
Type / Print Name

Office Manager  
Title

Vice President  
Title

Form Approved:

*James R. McCain, Jr.*  
Office of General Counsel

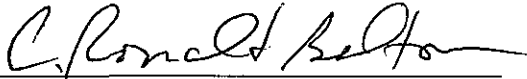
**Encumbrance and funding information for internal City use:**

**Account . . . . . Various subsequently issued purchase orders**

**Amount . . . . . \$500,000.00**

**This above stated amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by one (1) or more subsequently issued Purchase Order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Orders(s) is/are issued.**

In accordance with Section 24.103(e) of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under the Contract. Actual encumbrance(s) shall be made by subsequent purchase order(s) as specified in said Contract.

  
\_\_\_\_\_  
Director of Finance  
City Contract # 10122 *PO*  
*10122* *PO*

# SCOPE OF SERVICES

Exhibit A

## Section 4 Description of Services and Deliverables

Some, but not necessarily all, of the types of surveys that may be required under this project include:

### A. UTILITIES SURVEY

The purpose of this survey is to achieve accurate above and below ground existing utility positions prior to the design and construction of certain projects. Procedures for field locations shall be as follows:

1. Contact the owners of all utilities that may have facilities within the project, giving details as to project location, length, and/or extent of job. Advise that underground utilities are to be located horizontally and vertically.
2. Request utility personnel meet with surveyor's personnel at specific time and place. All underground utilities must be marked by the utility representative with surveyor's personnel present, giving size, type, and use. Ask the utility to furnish as-builts, if available. Surveyor will verify horizontal and vertical location by use of electric remote sensing equipment at 100 foot intervals with excavated verification at 300 foot intervals. This may also include vacuum excavation. All bends and angle points will be shown. Where a line runs parallel to the survey line or baseline, it should be uncovered at least every 500 feet for horizontal and vertical verification.
3. Survey forces will tie all utilities to a centerline or baseline of survey and record all field data. Horizontal position will be obtained by station and perpendicular offset, right or left of Baseline of Survey or centerline and measured to nearest 0.1 foot. Elevations of utilities will be read to the nearest 0.01 foot. Centerline or baseline of survey will be monumented and sufficiently referenced to ensure its reestablishment should control points be lost due to construction. Vertical control will be perpetuated by setting of benchmarks along project route and located relative to centerline or baseline of survey.

#### End Product: Utilities Survey

- a. The survey drawing furnished shall be in "AutoCadd" Release 2000" compatible format (dwg or dxf) that shall meet or exceed Minimum Technical Standards for Surveying in the State of Florida by Chapter 61G17 - 6.001-6.007.
- b. Overall drawing shall consist of layers of each utility's horizontal and vertical position on plan and profile sheet and be titled:

#### Specific Purpose Survey: Map to show Utility Locations - (Project Title)

- c. Individual drawings of each utility layer will also be provided. All utilities shall be clearly labeled as to owner, size, use, and type of material. Those locations where horizontal and vertical position have been verified by actual excavation will be noted on drawing as follows:

Vv = Verified vertical elevation

Vh = Verified horizontal location

Vvh = Verified vertical elevation and horizontal location.

4. One 100% review copy of the overall survey drawing and each individual drawing shall be submitted for approval. Upon approval a floppy disk as well as a signed and sealed mylar



# SCOPE OF SERVICES

copy shall be furnished. All field books and digital files shall be submitted upon completion and acceptance.

## **B. RIGHT-OF-WAYS SURVEYS**

A typical right-of-way may be for roadways, drainage systems, utilities, electrical transmission line corridors and other similar Public Works' projects. The service required may include one or more of the following types of surveys: Boundary, Topographical, Hydrographic, Mean Highwater Line, Safe Line and Control Survey as defined by Chapters 61G17.6 and 16Q21.09 of the Florida Administrative Code (F. A. C.) and Chapter 177, Part II, Florida Statutes.

The survey shall result in a survey drawing and legal description which shall meet or exceed Minimum Technical Standards for Surveying in the State of Florida by Chapter 61G17.6 F. A. C. Submit one (1) 100% review mylar copy of the survey drawing and legal description for approval, and two (2) mylar copies of the final survey drawing and legal descriptions signed and sealed by a registered Professional Surveyor and Mapper. All field books and digital files shall be submitted upon completion and acceptance.

## **C. EASEMENT SURVEYS**

A typical easement may be for drainage, utilities, ingress-egress, guy anchors and across sovereign land for utilities bridges, roads and cable crossings. The services required may include one or more of the following types of surveys: Boundary, Topographical, Hydrographic, Mean Highwater Line and Safe Line as defined by Chapter 61G17.6 F. A. C. and Chapter 177, Part II, Florida Statutes.

The survey shall result in a survey drawing and legal description which shall meet or exceed Minimum Technical Standards for Surveying in the State of Florida, as required by Chapter 61G17.6 F. A. C. Submit one (1) 100% review mylar copy of the survey drawing and legal description for approval, and two (2) mylar copies of the final survey drawing and legal descriptions signed and sealed by a registered Professional Surveyor and Mapper. All field books and digital files shall be submitted upon completion and acceptance.

## **D. BOUNDARY SURVEYS**

A typical Boundary Survey may be for various types of public buildings and recreational facilities which may include boat ramps, fishing piers, bulkheads or other recreational/park type developments; sanitary landfills, spoil areas and airports. The service required may include one or more of the following types of surveys: Boundary, Topographic, Architectural, Hydrographic, Mean Highwater Line, Jurisdictional Wetland Lines, Coastal Construction Set Back Lines, Control Survey and Quantity Survey, as defined by Chapter 61G17.6 F. A. C.

The survey shall result in a survey drawing and legal description which shall meet or exceed Minimum Technical Standards for surveying in the State of Florida, by Chapter 61G17.6 F. A. C. Submit one (1) 100% review mylar copy of the survey drawing and legal description for approval, and two (2) mylar copies of the final survey drawing and legal descriptions signed and sealed by a registered Professional Surveyor and Mapper. All field books and digital files shall be submitted upon completion and acceptance.

## **E. CONTROL SURVEYS**

A typical Control Survey may be for roadways, drainage projects, electrical transmission lines, sanitary landfills, coastal construction set back lines, and erosion control lines.

# SCOPE OF SERVICES

The survey shall establish all horizontal and vertical position data for the support or control of surveys or mapping. The horizontal and vertical controls shall meet or exceed Minimum Technical Standards for Surveying in the State of Florida, as required by Chapter 61G17.6 F. A. C. Submit one (1) 100% review mylar copy of the survey drawing and legal description for approval, and two (2) mylar copies of the final survey drawing and legal descriptions signed and sealed by a registered Professional Surveyor and Mapper. All field books and digital files shall be submitted upon completion and acceptance.

## F. CONSTRUCTION LAYOUT SURVEYS

A typical Construction Layout Survey may be for roadways, electrical poles, electrical transmission towers, drainage projects, sidewalks, recreational sports complex and other similar Public Works' projects.

The survey shall establish all horizontal and vertical controls and base lines prior to or while construction is in progress. The surveyor shall upon request from the Project Engineer or Inspector verify elevations, distances and angles on an as-needed basis for the duration of construction. Survey must meet or exceed Minimum Technical Standards, Chapter 61G17.6 F. A. C.

### End Product for Surveys B, C, D, E and F

1. The survey drawing furnished shall be in "AutoCad" Release 2010" compatible format (dwg or dxf) that shall meet or exceed Minimum Technical Standards for Surveying in the State of Florida by Chapter 61G17-6.001-6.007.
2. Submit one (1) 100% review copy of the survey and or legal description for approval and two (2) mylar copies of the final survey and or legal description signed and sealed by a registered Professional Surveyor and Mapper.
3. All field books and digital files shall be submitted upon completion and acceptance of the survey.

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*(End of Section 4 - Remainder of page intentionally left blank)*

**SCHEDULE OF PROPOSED RATES  
FOR  
MISCELLANEOUS SURVEYING SERVICES ANNUAL CONTRACT  
FOR CITY OF JACKSONVILLE**

(For information only. Rates to be submitted after selection of consultant)

**PERSONNEL COST (DIRECT LABOR RATES)**

1. Average hourly direct labor rates (without Fringe Benefits)

Principal (Partner or Senior Officer)	\$ <u>60.58</u> hr.
Project Manager (Responsible Professional)	\$ <u>48.08</u> hr.
Technician (Non-Registered)	\$ <u>36.06</u> hr.
Party Chief	\$ <u>26.63</u> hr.
Instrumentman	\$ <u>15.88</u> hr.
Rodman	\$ <u>12.83</u> hr.
Drafter or CADD Operator	\$ <u>30.43</u> hr.
Field Supervisor	\$ <u>36.06</u> hr.
Clerical (Typist, Word Processor, Document Assembly, etc.)	\$ <u>22.54</u> hr.

2. Total Overhead Rate (to be applied to Direct Labor: 150% maximum)  
150.00 %

3. Profit Rate (to be applied to Direct Labor plus overhead: 10% maximum)  
10.00 %

4. Other Direct Project Costs per Unit (please specify)  
Please see attached

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5. Estimated percentage of total fee to be performed by subconsultants  
20.00 %

6. Please provide any other relevant rates that may apply to this project including average direct hourly labor rates for other categories of proposed personnel

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