



CITY COMMISSION OF THE CITY OF PAHOKEE

## WORKSHOP

Tuesday, May 26, 2020 6:00 p.m.

360 East Main Street, Pahokee, Florida

This Workshop of the City Commission of the City of Pahokee is being held **by Teleconference/Zoom**, to discuss the May 26, 2020 Agenda.

A. INVOCATION AND PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. TOPIC

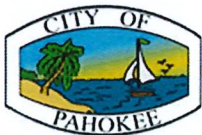
D. DISCUSSION, COMMENTS, CONCERNS

E. ADJOURN

#### NOTICE

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**SUBJECT TO CHANGE**



# AGENDA

## CITY COMMISSION OF THE CITY OF PAHOKEE REGULAR COMMISSION MEETING

**(This meeting is being held by teleconference/zoom)**

TUESDAY, MAY 26, 2020 6:30 P.M.

- A. INVOCATION AND PLEDGE OF ALLEGIANCE
- B. ROLL CALL
- C. ADDITIONS, DELETIONS, AND APPROVAL OF AGENDA ITEMS
- D. CITIZEN COMMENTS/PUBLIC SERVICE ANNOUNCEMENTS – ALL ITEMS ON AGENDA (3 MINUTES)
- E. APPROVAL OF MINUTES
  - 1. **April 28, 2020 – Workshop Minutes - Not Available**
  - 2. **April 28, 2020 – Regularly Scheduled Commission Meeting Minutes – Not Available**
- F. CONSENT AGENDA
- G. ORDINANCE(S)
- H. RESOLUTION(S)
  - 1. **Resolution 2020 – 14 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING AN AGREEMENT BETWEEN MDO ENGINEERING, INC. AND THE CITY OF PAHOKEE FOR ENGINEERING SERVICES FOR THE DEMOLITION OF THE OLD HOSPITAL ATTACHED HERETO AS EXHIBIT “A”; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.**
- I. PUBLIC HEARINGS
- J. PROCLAMATION(S)
- K. PRESENTATION(S)
- L. REPORT OF THE MAYOR
- M. REPORT OF THE CITY MANAGER
- N. REPORT OF THE CITY ATTORNEY
- O. OLD BUSINESS
- P. NEW BUSINESS
- Q. FUTURE AGENDA ITEMS OF COMMISSIONERS, IF ANY
- R. FOR THE GOOD OF THE ORDER (COMMUNITY EVENTS, FEEL GOOD ANNOUNCEMENTS)
- S. ADJOURN

### NOTICE

If a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he or she will need a record of the proceedings, and he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**SUBJECT TO CHANGE**

RESOLUTION 2020 - 14

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA APPROVING AN AGREEMENT BETWEEN MDO ENGINEERING, INC. AND THE CITY OF PAHOKEE FOR ENGINEERING SERVICES FOR THE DEMOLITION OF THE OLD HOSPITAL ATTACHED HERETO AS EXHIBIT "A"; PROVIDING FOR ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Code Section 2-272(5) exempts engineering services from competitive bidding unless required by law; and

WHEREAS, Florida Statutes Section 287.055 exempts engineering services from competitive bidding for construction projects estimated to cost less than \$325,000.00.

WHEREAS, the Demolition Contract (defined below) is anticipated to be for an amount not to exceed \$300,000.00; and

WHEREAS, the City desires to hire the Consultant to provide professional engineering, inspection and consulting ("Services") in connection with the City's ITB #2020-03 for General Contract Demolition Services for the Old Hospital and the resulting contract (the "Demolition Contract"); and

WHEREAS, Consultant has expressed the capability and desire to perform the Services; and

WHEREAS, the City desires to engage Engineer to perform the Services for an amount not to exceed \$15,000, in accordance with the provisions of the Agreement attached hereto as Exhibit "A"; and

WHEREAS, the City Commission of the City of Pahokee, Florida has determined that approval of the Agreement is in the best interests of the City and its residents;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PAHOKEE, FLORIDA, AS FOLLOWS:**

**Section 1.** Adoption of Representations. The foregoing whereas clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

**Section 2.** Authorization Approving Agreement and Execution. The City Commission of the City of Pahokee hereby approves the Agreement between the City of Pahokee and MDO Engineering, Inc., attached hereto as Exhibit "A" and further authorizes the City Manager to execute the same.

**Section 3.** Effective Date. This Resolution shall be effective immediately upon its passage and adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of May, 2020

\_\_\_\_\_  
Keith W. Babb, Jr., Mayor

**ATTEST:**

\_\_\_\_\_  
Nohemi Polanco, City Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Burnadette Norris-Weeks, P.A.  
City Attorney

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**VOTE:**

Commissioner Bohlen	_____ (Yes)	_____ (No)
Commissioner Everett	_____ (Yes)	_____ (No)
Commissioner Hill	_____ (Yes)	_____ (No)
Vice-Mayor Murvin	_____ (Yes)	_____ (No)
Mayor Babb	_____ (Yes)	_____ (No)

Exhibit "A"

Agreement for Engineering Services with MDO Engineering, Inc.

**PROFESSIONAL SERVICES AGREEMENT FOR  
PROFESSIONAL ENGINEERING INSPECTION AND CONSULTING SERVICES**

**THIS AGREEMENT** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Pahokee ("City"), a political subdivision of the State of Florida, hereinafter referred to as "City" and MDO Engineering, Inc. ("MDO Engineering" or "Consultant"), authorized to do business in the State of Florida, hereinafter referred to as the "Consultant".

In these General Conditions, MDO ENGINEERING, INC. (hereinafter referred to as "MDO ENGINEERING" or "CONSULTANT.")

**WHEREAS**, Section 2-272(5) of the City of Pahokee's Code of Ordinances exempts engineering services from competitive bidding, unless required by law; and

**WHEREAS**, Section 287.055, Florida Statutes exempts engineering services from competitive bidding for construction projects estimated to cost less than \$325,000.00; and

**WHEREAS**, the Demolition Contract (defined below) will be for an amount not to exceed \$300,000.00; and

**WHEREAS**, the City desires to hire the Consultant to provide professional engineering, inspection and consulting ("Services") in connection with the City's ITB #2020-03 for General Contract Demolition Services for the Old Hospital and the resulting contract (the "Demolition Contract"), as set forth in this Agreement, including Exhibit "A" hereto; and

**WHEREAS**, Consultant has expressed the capability and desire to perform the Services described herein; and

**WHEREAS**, the Consultant and the City desire to enter into the foregoing Agreement to include the period that will allow completion of the needed demolition services for a period of up to one year.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions, the Parties agree as follows:

**ARTICLE 1**

The above Recitals are incorporated herein by reference.

1.1 The following documents are incorporated and made part of this Agreement: Scope of Services (Exhibit "A"); Standard Hourly Rates (Exhibit "B").

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

- Specific written direction from the City Manager (or designee) not inconsistent with this Agreement.
- This Agreement.
- Exhibit "A" Scope of Services
- Exhibit "B" Standard Hourly Rates

## ARTICLE 2 SERVICES AND RESPONSIBILITIES

2.1 General: These general provisions shall be related to this Agreement.

2.1.1 **Services by Consultant**; Standard of care. Consultant will perform the services described in this Agreement which are issued under this Agreement and signed by both parties. In performing the services, Consultant will exercise the degree of care and skill ordinarily exercised by reputable engineering companies performing the same or similar services within the State of Florida. Consultant will not have any obligation to perform services not expressly described in this Agreement.

2.1.2 **Hazardous materials**. Consultant's services do not include directly or indirectly performing or arranging for the detection, monitoring, handling, storage, removal, transportation, disposal or treatment of petroleum or petroleum products (collectively called "Oil") or of any hazardous, toxic, radioactive or infectious substances, including any substances regulated under RCRA or any other federal or state environmental laws (collectively called "Hazardous Materials").

2.1.3 **Other contractors**. Consultant shall not have any duty or authority to direct, supervise or oversee any contractors of CITY. Consultant shall not be liable for the failure of CITY's contractors or others to fulfill their responsibilities. Consultant is expected to advise City of a deviation from expected professional standards.

2.1.4 **Health and safety**. Consultant shall not be responsible for health or safety programs or precautions related to City's activities or operation, CITY's other contractors, the work of any other person or entity, or site conditions.

2.1.5 **Notice to Proceed**. The Consultant agrees, upon issuance of a Notice to Proceed (or similar written work authorization) to perform work for the benefit of the City the Services set forth herein and, in the exhibits, and shall be perform in accordance with standard industry practice. The Consultant shall guard against defects in its work.

2.1.6 **Furnish Data.** City will furnish to Consultant any data available in the City files pertaining to the work to be performed under this agreement promptly after the Notice to Proceed or similar document is issued.

2.1.7 **Minutes.** Consultant agrees to produce and distribute minutes, within two (2) working days after each meeting at which his presence is required. The minutes shall be emailed to the City Manager for review.

2.1.8 City agrees to issue all directives and approval in writing.

### **ARTICLE 3 PROFESSIONAL SERVICES**

3.1 Professional Services: The general scope of professional services to be provided by the Agreement shall include overall review and consultation of the services as set forth in Exhibit "A", and services required by this Agreement.

In addition, Consultant shall visit the site as required to ascertain the progress of the demolition project and to determine, in general, if the demolition work is progressing in accordance with the applicable contract documents, plans, drawings, engineering standards and state and federal laws. On the basis of on-site observations, Consultant will use reasonable and customary care to guard the CITY against defects and deficiencies in the demolition work. If necessary, Consultant may be required to provide daily on-site observations to check the quality of the work as defined by the contract and the Scope of Services issued for the project. Consultant will advise the CITY as to the progress of and any observed defects and deficiencies in the work immediately in writing.

Consultant will provide CITY with a written report of all observations of the work made by him/her during each visit to the site and note general status and progress of the work.

Consultant shall have an affirmative duty to recommend rejection of work, which does not conform, to the contract documents. Whenever, in his reasonable opinion he considers it necessary or advisable to insure compliance with the contract documents, he will have authority (with the City's prior approval) to recommend special inspections or testing of work deemed not to be in accordance with the Demolition Contract whether or not such work has been fabricated, if applicable, and delivered to the project, or installed and completed.

Consultant shall promptly review and approve show drawings, samples, and other submissions for conformance and necessary for compliance in order to complete the project.



**ARTICLE 4  
CITY'S RESPONSIBILITIES**

4.1 The City shall do the following in a timely manner so as not to delay the services of the Consultant:

4.1.1 Designate in writing a person to act as the City's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions and receive information with respect to the Consultant's services for a particular project.

4.1.2 Provide or arrange for access and make all provisions for Consultant to enter any site where services are to be performed.

4.1.3 Furnish Consultant with all approvals, permits and consents from government authorities and others as may be required for performance of the services.

4.1.4 Comply with all laws and provide any notices required to be given to any government authorities in connection with the services, except for such notices Consultant has expressly agreed in writing to give.

4.1.5 Environmental assessment and impact statements, if required.

4.1.6 Property, boundary, easement, right-of-way, topographic and utility surveys.

4.1.7 Property descriptions.

4.1.8 Zoning, deed and other land use restrictions, if known.

4.1.9 Approvals and permits required in the City's jurisdiction and those from outside agencies unless such approvals and permits are the responsibility of the Consultant, all of which the Consultant may use and rely upon in performing services under this Agreement.

**ARTICLE 5  
SEQUENCE OF SERVICES AND TIME FOR PERFORMANCE**

5.1 This Agreement shall commence upon the execution by both parties and shall continue for a term of one (1) year, unless terminated sooner as provided for in this Agreement. The Consultant understands and acknowledges that the Services to be performed during the term hereof will be governed by this Agreement, and that there is no guarantee of future work being given to the Consultant.

5.2 The services rendered by Consultant for work shall be commenced upon written notice to proceed from the City subsequent to execution of this Agreement and shall be completed within the time based on reasonable determination stated in said Notice to Proceed.

5.3 A reasonable extension of time will be granted in the event there is a delay on the part of the City in fulfilling its part of the Agreement, change of scope of work or should any other events beyond the control of consultant render performance of duties impossible.

5.4 When the City issues a Notice to Proceed or work authorizations to the Consultant, each such authorization will contain a stated completion schedule in consultation with Consultant. Failure of the Consultant to meet the stated schedule will constitute a default, for which payment for services may be withheld until default is cured. Time extensions will be reviewed, upon request, for extenuating circumstances.

5.5 When the Consultant has exceeded the stated completion date, including any extension for extenuating circumstances which may have been granted, a written notice of default will be issued to the Consultant and payment for services rendered shall be withheld.

5.6 Should the Consultant exceed the assigned completion time of an individual work authorization, the City reserves the right not to issue to the Consultant any further work authorizations until such time as there is no longer in a Default and the Consultant has demonstrated, to the City's satisfaction, that the reasons for tardy completion have been addressed and are not likely to be repeated in subsequent work authorizations. This restricted issuance provision may result in the Consultant not being issued all of the planned work the City anticipated in this Agreement. The Consultant shall have no right to the balance of any work, nor to any compensation associated with these non-issued work authorizations, due to the Consultant being in Default.

5.7 Should the Consultant remain in default for a time period of fifteen (15) consecutive calendar days, the City may, at its option, retain another Consultant to perform any work arising out of this Agreement and/or terminate this Agreement.

## **ARTICLE 6 DELAY IN PERFORMANCE/SUSPENSION OR ABANDONMENT**

6.1 City shall be entitled to withhold payments to Consultant for services rendered until completion of services to the City's satisfaction.

6.2 A delay due to an Act of God, fire, lockout, strike or labor dispute, manufacturing delay, riot or civil commotion, act of public enemy or other cause beyond the control of Consultant, or by interruption of or delay in transportation, labor trouble from whatever cause arising and whether or not the demands of the employees involved are reasonable

and with City's power to concede, partial or complete suspension of City's operations, compliance with any order or request of any governmental officer, department, agency, or committee shall not subject City to any liability to Consultant. At the City's option, the period specified for performance of services shall be extended by the period of delay occasioned by any such circumstance, and services omitted shall be made or performed during such extension, or the services so omitted shall extend this Agreement for a period equal to such delay. During this period such delay shall not constitute a delay by the Consultant.

## ARTICLE 7 COMPENSATION AND METHOD OF PAYMENT

7.1 City agrees to compensate Consultant for the services performed pursuant to the provisions of this Agreement based on the attached **Exhibit "B"**, an amount not to exceed Fifteen Thousand Dollars (\$15,000.00).

7.2 The City shall pay Consultant within thirty (30) days of receipt of any invoice the total shown to be due on such invoice, provided the City has accepted the Consultant's performance.

7.3 City is not obligated to pay for any work performed without a written invoice. Consultant shall produce to the CITY a billing statement specifying the work performed utilizing the values set forth in Exhibit "B" and not to exceed the total amount of this Agreement as set for the in 7.1 above.

## ARTICLE 8 OWNERSHIP OF DOCUMENTS

8.1 All documents, design plans and specifications resulting from the professional services rendered by the Consultant under this Agreement shall be deemed the sole property of the City, and the City shall have all rights incident to the sole ownership. The reuse of any such documents, design plans, and specifications by the City or any project not covered by this Agreement without the written authorization of Consultant shall be at City's sole risk. Consultant agrees that all documents maintained and generated pursuant to this contractual relationship between City and Consultant shall be subject to all provisions of Chapter 119.01 et. seq. Florida Statutes and Contractor shall maintain all records and produce such records upon written request, after notifying City of any said request.

8.2 The Consultant shall agree to indemnify and hold harmless the City, from 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 the Consultant and other persons employed or utilized by the Consultant.

**ARTICLE 9**  
**COURT APPEARANCE, CONFERENCES AND HEARINGS**

9.1 This Agreement shall obligate the Consultant to prepare for and appear in litigation or any other proceeding on behalf of the City for any dispute arising out of this Agreement. Except for litigation caused by errors or omissions of the Consultant, Consultant shall be compensated for such litigation support services as determined reasonable by City and at prevailing rates.

9.2 The Consultant shall confer with the City during the performance of the Services regarding the interpretation of this Agreement, the correction of errors and omissions, the preparation of any necessary revisions to correct errors and omissions or the clarification of service requirements, all without compensation.

**ARTICLE 10**  
**REPRESENTATIONS**

10.1 The Consultant shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement and all services performed under this Agreement shall be done in a professional manner.

10.2 The Consultant represents, with full knowledge that the City is relying upon these representations when entering into this Agreement with the Consultant, that the Consultant has the professional expertise, experience and manpower to perform the services as described in this Agreement.

10.3 The Consultant shall be responsible for technically deficient designs, reports or studies due to Consultant's errors and omissions, for four years after the date of final acceptance of the Services by the City or as provided under Florida law, whichever is greater. The Consultant shall, upon the request of the City, promptly correct or replace all deficient work due to errors or omissions which fall below the recognized standard of care, without cost to City. The Consultant shall also be responsible for all damages resulting from the Consultant's documents. Payment in full by the City for services performed does not constitute a waiver of this representation.

10.4 All services performed by the Consultant shall be to the satisfaction of the City. In cases of disagreement or ambiguity, the City shall decide all questions, difficulties and disputes of whatever nature that may arise under this Agreement. Specifically, the City shall decide all questions, difficulties and disputes of whatever nature which may arise by reason of this agreement, the prosecution and fulfillment of the services and the character, quality, amount and value and the City's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon the parties unless such determination is clearly arbitrary or unreasonable. In the event that Consultant does not agree with the position of the City, Consultant shall advise the City Manager in writing that Consultant desires to

seek resolution of such dispute, claim or controversy by arbitration in accordance with Paragraph 27 herein.

10.5 The Consultant warrants and represents that all of its employees, other Consultants and sub-contractors are treated equally during employment or retention without regard to race, color, religion, gender, age or national origin.

10.6 The Consultant represents 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 contract and that it has not paid or agreed to pay any company or person other than a bona fide employee working solely for the Consultant any fee, commission, percentage fee, gifts or any other considerations contingent upon or resulting from the award or making of this contract. For breach or violation of this representation, the City shall have the right to cancel this Agreement without liability to the Consultant or any third party. Execution of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate certifying that wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of this Agreement.

#### **ARTICLE 11 NOTICES**

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated or as may be changed from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the date of actual receipt.

Consultant:	Marcos Montes De Oca 2001 SW 8TH ST Okeechobee, FL 34974
City:	Chandler Williamson, City Manager City of Pahokee 207 Begonia Drive Pahokee, FL 33476
Copy To:	Burnadette Norris-Weeks, City Attorney Burnadette Norris-Weeks, P.A. 401 North Avenue of the Arts Fort Lauderdale, Florida 33311

**AUDIT RIGHTS**  
**ARTICLE 12**

The City reserves the right to audit the records of the Consultant covered by this Agreement at any time during the execution of the Services and for a period of three (3) years after final payment is made for any Work performed.

**ARTICLE 13**  
**SUBCONTRACTING**

13.1 No Services shall be subcontracted, assigned, or transferred under this Agreement without the prior consent of the City, which consent may be withheld.

13.2 The Consultant shall be fully responsible to the City for all acts and omissions of any agents or employees, or approved subcontractors. Subcontractors shall be approved by City, in writing, and have appropriate general liability, professional liability, and workers' compensation insurance, or be covered by Consultant's insurance. Consultant shall furnish the City with appropriate proof of insurance and releases from all subcontractors in connection with the work performed.

**ARTICLE 14**  
**TERMINATION**

14.1 The Either party to this Agreement retains the right to terminate Consultant's services and/or this Agreement, with or without cause, upon thirty (30) days written notice, at any time prior without penalty. City shall only be responsible to pay the Consultant for any service actually rendered up to the date of termination. Consultant shall not be entitled to any other amounts or damages, including but not limited to anticipated profits or consequential damages, special damages or any other type of damages upon termination by the City pursuant to this Article.

14.2 It is understood by the City and Consultant that any payment to Consultant shall be made only if Consultant is not in default under the terms of this Agreement.

14.3. Upon receipt of a Termination Notice and except as otherwise directed by the City, Consultant shall:

14.3.1 Stop work on the date and to the extent specified.

14.3.2 Terminate and settle all orders relating to the terminated work.

14.3.3 Transfer all work in progress, completed work, and other materials related to the terminated work to the City.

## **DEFAULT ARTICLE 15**

15.1 An event of default shall mean a breach of this Agreement by the Consultant. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:

Consultant has not performed services on a timely basis;  
Consultant has refused or failed to supply enough properly skilled Personnel or time;  
Consultant has failed to make prompt payment to subcontractors or suppliers for any services after receiving payment from the City for such services or supplies, if applicable;  
Consultant has failed to obtain the approval of the City where required by this Agreement;  
Consultant has failed in any representations made in this Agreement; or  
Consultant has refused or failed to provide the Services as defined in this Agreement; or  
Consultant has filed bankruptcy or any other such insolvency proceeding and the same is not discharged within 90 days of such date.

15.2 In an Event of Default, the Consultant shall be liable for all damages resulting from the default, including:

The difference between the amount that has been paid to the Consultant and the amount required to complete the Consultant's work, provided the fees by the firm replacing the Consultant are reasonable and the hourly rates do not exceed the Consultant's rates. This amount shall also include procurement and administrative costs incurred by the City. Consequential damages and Incidental damages.

15.3 The City may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy given or otherwise existing and may be exercised from time to time and as often and in such order as may be deemed expedient by the City. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the City in law or in equity.

## **ARTICLE 16 INDEMNIFICATION**

16.1 Consultant shall indemnify and hold harmless the City, its trustees, elected and appointed officers, agents, servants and employees, from any and all claims, demands, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by, arising out of, or resulting from the negligence, recklessness, errors, omissions or intentionally wrongful conduct of the Consultant or its employees,

agents, servants, partners, principals, sub-consultants or other persons utilized by the Consultant in the performance of this Agreement.

Consultant shall pay all claims and losses in connection therewith and Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Consultant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its elected and appointed officers, agents, servants and employees as herein provided. Nothing contained herein shall be deemed a waiver of sovereign immunity.

## **ARTICLE 17 INSURANCE**

17.1 Throughout the term of this Agreement, the Consultant shall maintain in force at its own expense and name the City and an additional insured for insurance as follows:

17.1.1 Workers' Compensation: Workers' Compensation Insurance with statutory limits, including coverage for Employer's Liability, with limits not less than \$1,000,000.00.

17.1.2 General Liability: Commercial General Liability with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property damage including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. This coverage is required by the Consultant and any subcontractor or anyone directly or indirectly employed by either of them. The City shall be named additional insured.

17.1.3 Automobile Liability: Comprehensive or Business Automobile Liability Insurance with not less than \$500,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for owned, hire and non-owned vehicles as applicable. The Consultant and any of its approved subcontractors shall take out and maintain this insurance coverage against claims for damages resulting from bodily injury, including wrongful death and property damage which may arise from the operations of any owned, hired or non-owned automobiles and/or equipment used in any endeavor in connection with the carrying out of this Agreement. The City shall be named as an additional insured.

17.1.4 Professional Liability: The Consultant, its officers, employees and agents will provide the City a Certificate of Insurance evidencing professional liability insurance with limits of not less than \$1,000,000.00 aggregate with respect to acts, errors or omissions in connection with professional services to be provided under this Agreement and any deductible is not to exceed \$25,000.00 for each claim. Consultant represents it is financially responsible for the deductible amount. The Consultant shall maintain professional liability insurance during the term of this Agreement and for a period of four (4) years from the date of completion of each Project. In the event that Consultant goes out of business during the



term of this Agreement or the four (4) year period described above, Consultant shall purchase Extended Reporting Coverage for claims arising out of Consultant's negligent acts errors and omissions during the term of the Professional Liability Policy.

17.1.5 Subcontractor's Insurance: Each subcontractor, to the extent applicable, shall furnish to the Consultant two (2) copies of the Certificate of Insurance and Consultant shall furnish one copy of the Certificate to the City, and shall name the City as an additional insured.

17.2 All insurance policies required of the Consultant shall be written by a company with a Best's rating of B+ or better and duly authorized and licensed to do business in the State of Florida and be executed by duly licensed agents upon whom service of process may be made in Palm Beach County, Florida. The City may accept coverage with carriers having lower Best's ratings upon review of financial information concerning Consultant and the insurance carrier.

17.3 The required insurance shall be proved under occurrence-based policies, which Consultant shall maintain continuously throughout the term of this Agreement.

17.4 Any deductibles or self-insured retentions must be declared to and approved by the City Manager or designee prior to the start of work under this Agreement. The City reserves the right to request additional documentation, financial or other such documentation as well as such additional insurance as the City Manager deems appropriate, prior to giving approval of the deductible or self-insured retention and prior to executing the Agreement. The City Manager or designee, prior to the change taking effect, must approve any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy.

## **ARTICLE 18 ATTORNEYS FEES**

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, expenses and court costs, including appellate fees incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

## **CODES, ORDINANCES, AND LAW ARTICLE 19**

The Consultant shall abide and be governed by all applicable local, state and federal codes, ordinances, and laws, rules, regulations and directives regarding the Consultant's Services.

**ARTICLE 20  
ENTIRETY OF AGREEMENT**

This Agreement and its attachments constitute the sole and only Agreement of the parties and sets forth the rights, duties, and obligations of each party. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

**ARTICLE 21  
NON-EXCLUSIVE AGREEMENT**

The professional services to be provided by the Consultant pursuant to this Agreement shall be nonexclusive, and nothing shall preclude the City from engaging other firms to perform similar professional services.

**ARTICLE 22  
GOVERNING LAW; VENUE**

This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue shall be in Palm Beach County, Florida.

**ARTICLE 23  
INDEPENDENT CONTRACTOR**

Consultant and its employees and agents shall be deemed to be independent contractors and not City agents or employees. The Consultant, its employees or agents shall not attain any rights or benefits under the City's retirement plan nor any rights generally afforded the City's classified or unclassified employees. The Consultant shall not be deemed entitled to the Florida Workers' Compensation benefits as a City employee.

**ARTICLE 24  
NONDISCRIMINATION**

Consultant agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

**AMENDMENTS  
ARTICLE 25**

No amendments to this Agreement shall be binding on either party unless in writing and signed by both parties.

**ARTICLE 26**  
**CONDUCT/CONFLICT OF INTEREST**

Consultant covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, direct or indirect, with Consultants or vendors providing professional services on projects assigned to the Consultant, except as fully disclosed and approved by the City. Consultant further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

**ARTICLE 27**  
**MEDIATION**

Any claims, controversies or disputes arising out of the terms of this Agreement or its interpretation shall be first attempted by mediation in the State of Florida in accordance with the rules, procedures and regulations of the American Arbitration Association.

**ARTICLE 28**  
**OTHER PROVISIONS**

28.1 Title and paragraph headings are for convenient reference and are not a part of this Agreement.

28.2 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same of any other provision, and no waiver shall be effective unless made in writing.

28.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida by a court of competent jurisdiction, such provision, paragraph, sentence, word or phrase shall be deemed modified in order to conform with Florida law. If not modifiable to conform with such law, then it shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force an effect.

28.4 This Agreement is binding upon the parties hereto their heirs, successors and assigns.

28.5 This Agreement shall not be construed against the party who drafted the same as all parties to this Agreement have had legal and business advisory's review the adequacy of the same.

28.6 This Agreement may not be assigned by the Consultant without the express written consent of the City, which consent may be withheld.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

**CITY OF PAHOKEE**

ATTEST:

\_\_\_\_\_  
, City Clerk

BY: \_\_\_\_\_  
Keith Babb, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

\_\_\_\_\_  
Burnadette Norris-Weeks, City Attorney

\_\_\_\_\_  
Chandler Williamson, City Manager

**CONSULTANT**

\_\_\_\_\_  
MARCOS MONTES DE OCA

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_

STATE OF FLORIDA     )  
  ) SS:  
COUNTY OF             )  
PALM BEACH            )

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_ as \_\_\_\_\_, of \_\_\_\_\_, a Florida corporation, and acknowledged executed the foregoing Agreement as the proper official of \_\_\_\_\_, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this \_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

## EXHIBIT "A"

### SCOPE OF SERVICES City of Pahokee Demolition Services for the Old Hospital

Services Prior to Execution of the Demolition Contract. MDO Engineering, Inc. ("Consultant") will develop the scope of services to be included in the City's RFP #2020-01 for General Contract Demolition Services and the resulting contract.

Services During Construction Consultant will perform inspections of the demolition site no less than two times per week and more often when necessary to observe the progress and quality of work, ensure work is completed as necessary to support the engineering services and to review the requirements of the work. Additionally, Consultant agrees to work with City and present a schedule of work. The services performed shall include that set forth herein and in Article 3 of this Agreement. More specifically, Consultant shall:

- Observe demolition and ensure it is in accordance with acceptable construction practices.
- Attend preconstruction meeting, final site meeting and process meetings as noted during demolition.
- Site demolition visits are needed to observe work.
- Contractor's coordination of facilities and utilities.
- Preview of all invoices and verification of qualities invoiced to City by third party contractor.
- Final Inspection and Certificate of Completion of Work.
- All other requirements of this Agreement.

At the conclusion of the Work, Consultant will prepare a letter of completion to City based upon field inspections. For the Agreement is for a lump sum NOT TO EXCEED a total amount of \$15,000.00, and utilizing the rates set forth in Exhibit "B".

**EXHIBIT "B"**

**MDO ENGINEERING INC.  
Standard Hourly Rates**

Effective July 1, 2012 (Rev 8/1/2015)

**Engineers, Planners, Architects, Landscape Architects, Geologists & Construction**

Assistant	\$85.00 per hour
Associate	\$95.00 per hour
Principle / Officer	\$135.00 per hour

**Technical/Designer Personnel:**

Designer/Technician	\$ 85.00 per hour
Senior Designer Technician	\$110.00 per hour

**CADD Personnel:**

CADD Operator	\$85. 00 per hour
---------------	-------------------

**Administrative Personnel:**

Project Administrative Support	\$ 45.00 per hour
--------------------------------	-------------------

**Construction Inspection:**

Assistant Field Representative	\$ 85.00 per hour
Senior Project Representative	\$ 105.00 per hour

**Direct Project Expenses:**

Travel - Automobile/Truck	Current IRS Rate
Travel - Other than Automobile	