



CONTRACT EXECUTIVE OVERVIEW (Renewal)

Vendor Name Empire Computing & Consulting, Inc.

Project Name: Professional IT Services

Bid/Reference # Contract 20-20 Completed under competitive RFP

Contract Type: Piggyback

Contract Value \$ Over \$50K

Resolution # 2024-112

City Council Approval Date: 08/06/2024

Original Contract Date: 08/06/2024

New End Date: 03/08/2027

City's Project Manager Mark Aiello

Brief Description/Purpose:

Renewal of piggyback to utilize the terms and conditions of the City of Cocoa Agreement for IT Professional Consulting (specifically the disciplines of application/ database development & support, audio/ visual support and physical security) as needed.

Approvals:

Responsible Dept. Director
Signed by:
DocuSigned by: AEF03B4E4CD54EE...

Date: Apr 28, 2026 | 3:12 PM EDT

City Finance Helena Alves
Signed by:
DocuSigned by: 4E2A3892B67B492...

Date: May 7, 2026 | 10:01 AM EDT

City Attorney Marcus Duffy
Signed by:
DocuSigned by: 879E1A0D9FD417...

Date: May 8, 2026 | 9:56 AM EDT

City Manager Mike McElathlin
Signed by:
DocuSigned by: D7DF1A254975438...

Date: May 8, 2026 | 11:02 AM EDT

Vendor Name and Email Address: Dale Slack dale@empirecomputing.com



City of PALM COAST

Finance Department
Budget & Procurement Office

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

EMPIRE COMPUTING & CONSULTING, INC
Attn: Dale Slack
120 N. Frederick Ave.
Daytona, FL 32114

RE: Letter Authorizing Piggyback Contract Renewal

Renewal: Professional IT Services
Contract Name

Contract 20-20 Completed under Competitive RFP
Contract #

Dear Dale,

The City of Palm Coast, Florida requests permission to renew the engagement letter dated 08/06/2024 until 03/08/2027. Such renewal shall be under the same terms and conditions, including pricing, as the agreement with the City Of Cocoa. If agreed, please indicate approval by electronically signing below. This is the first renewal. **This renewal incorporates the updated Florida Statutes requirements as outlined below.**

Contractor is aware of and agrees to comply with the requirements of Florida Statutes § 287.138. To the extent that, under this Agreement, Contractor has access to personal identifying information, Contractor agrees that: Contractor is not owned by the government of a foreign country of concern; the government of a foreign country of concern does not have a controlling interest in Contractor; and Contractor is not organized under the laws of and does not have its principal place of business in a foreign country of concern. Per Florida Statutes § 287.138(1)(c), "foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern. Breach of this provision shall be considered a material breach of this Agreement and shall entitle City to, in its sole discretion, terminate this Agreement.

If agreed, please indicate approval by electronically signing below.

Please feel free to contact me at the email address below, if you have any questions. Regards,

Taya Hoff

Taya Hoff
Procurement Coordinator
Thoff@palmcoastgov.com

This contract renewal is hereby acknowledged and agreed to:

CITY OF PALM COAST
Signed by: Mike McGlothlin
By: D7DE1A254975438

Print Name: Michael McGlothlin
Title: City Manager
Date: May 8, 2026 | 11:02 AM EDT

DocuSigned by:
Empire Computing & Consulting, Inc.
Dale Slack
By: 788F849A5E15474
(Authorized Signatory)

Print Name: Dale Slack
Title: Senior Systems Engineer
Date: Apr 28, 2026 | 2:08 PM EDT



ENGAGEMENT LETTER ADDENDUM**1. E-Verify Registration and Use.**

“Effective January 1, 2021, public and private employers, contractors and subcontractors must require registration with, and use of the E-verify system to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and*
- b) All persons (including sub vendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Palm Coast.*

By entering into this Agreement, the Contractor becomes obligated to comply with the provisions of Section 448.05, F.S. (2023), “Employment Eligibility,” as amended from time to time. This includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to execute the same affidavit and to maintain a copy of such affidavits for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, F.S. (2023), as amended, and the Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to City incurred because of the termination of this Agreement in accordance with this section.”

2. Prohibition against considering social, environmental, political, or ideological interests in government contracting

Pursuant to Section 287.05701, F.S., the City cannot give preference to a Contractor based on the Contractor’s social, political, or ideological interests such as:

- a. The Contractor’s political opinions, speech, or affiliations.*
- b. The Contractor’s religious beliefs, religious exercise, or religious affiliations.*
- c. The Contractor’s lawful ownership of a firearm.*
- d. The Contractor’s lawful engagement in lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.*
- e. The Contractor’s engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.*
- f. The Contractor’s support of the state or federal government in combating illegal immigration, drug trafficking, or human trafficking.*
- g. The Contractor’s engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described herein.*
- h. The Contractor’s failure to meet or commit to meet, or expected failure to meet, any of the following as long as such Contractor is in compliance with applicable state or federal law: 1) environmental standards, including emissions standards, benchmarks, requirements or disclosures; 2) social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice; corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.*

3. Scrutinized Companies

A. Contractor hereby certifies that it: a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and c) has not been engaged in business operations in Cuba or Syria. If City determines that Contractor has falsely certified facts under this paragraph or if Contractor is found to have been placed on the Scrutinized Companies Lists or is engaged in a boycott of Israel after the execution of this Contract, City will have all rights and remedies to terminate this Contract consistent with Section 287.135, F.S., as amended. The City reserves all rights to waive the certifications required by this paragraph on a case-by-case exception basis pursuant to Section 287.135, F.S., as amended.

4. Public Records.

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

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

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

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

5. Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without regard to its conflict of laws principles. The parties agree that any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Flagler County, Florida, or the Middle District of Florida in Orlando, FL., if in federal court. Each party hereby consents to the personal jurisdiction of such courts and waives any objection based on venue or inconvenient forum.

6. Sovereign Immunity.

City of Palm Coast expressly retains all rights, benefits and immunities of sovereign immunity and nothing herein shall be deemed to affect the rights, privileges, and immunities of City of Palm Coast as set forth in Section 768.28, Florida Statutes.

7. Taxes.

Taxes, customs and tariffs on commodities or contractual services purchased under this contract will not be assessed against the City of Palm Coast unless mandated by State or Federal Law.

CITY OF PALM COAST

Signed by:
Mike McGlothlin
By: D7DF1A254975438...

Print Name: Michael McGlothlin

Title: City Manager

Date: May 8, 2026 | 11:02 AM EDT

Empire Computing & Consulting, Inc.

DocuSigned by:
Dale Slack
By: 788F849A5F15474...
(Authorized Signatory)

Print Name: Dale Slack

Title: Senior Systems Engineer

Date: Apr 28, 2026 | 2:08 PM EDT

FORM 7 – PUR 1355

**FOREIGN COUNTRY OF CONCERN ATTESTATION
(PUR 1355)**


This form must be completed by an officer or representative of an entity submitting a bid, proposal, or reply to, or entering into, renewing, or extending, a contract with a Governmental Entity which would grant the entity access to an individual's Personal Identifying Information. Capitalized terms used herein have the definitions ascribed in [Rule 60A-1.020, F.A.C.](#)

Empire Computing & Consulting is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: Dale Slack

Title: Senior Systems Engineer

Signature: 
788F849A5F15474...

Date: Apr 28, 2026 | 2:08 PM EDT

FORM 8 – AFFIDAVIT OF COMPLIANCE

AFFIDAVIT OF COMPLIANCE WITH ANTI-HUMAN TRAFFICKING LAWS

State of _____

County of _____

In accordance with section 787.06 (13), Florida Statutes, the undersigned, on behalf of _____ (the "Entity"), hereby attests under penalty of perjury, that the Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking."

The undersigned representative of the Entity is authorized to execute this affidavit on behalf of the Entity.

Date: _____

Signed: _____

Entity: _____

Name:

Title:

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 2024, by _____.

Notary Signature

PRINT, TYPE OR STAMP NAME OF NOTARY

Personally known _____

OR Produced Identification _____

Type of Identification Produced _____



PURCHASING

65 Stone Street • Cocoa, FL 32922

PHONE: (321) 433-8833

EMAIL: purchasing@cocoafl.gov

**CITY OF COCOA
1ST AMENDMENT TO PROFESSIONAL CONSULTANT AGREEMENT
CONTRACT P-20-20-COC
PROFESSIONAL IT SERVICES**

This **Second Amendment** (“Amendment”) is made and entered into by and between the **City of Cocoa**, a Florida municipal corporation (“City”), and **Empire Computing & Consulting Inc.**, a for-profit corporation (“Contractor”).

RECITALS

WHEREAS, the City and Contractor entered into an agreement for Professional IT Services (Contract P-20-20-COC) dated January 29, 2021, with an original term from March 9, 2021, through March 8, 2026; and

WHEREAS, the parties previously executed a First Amendment to update Exhibit A – Pricing Schedule; and

WHEREAS, the City desires to exercise the first of two (2) optional one-year renewal terms to extend the Agreement; and

WHEREAS, the parties desire to amend the Agreement to establish standards for reimbursable materials and to incorporate mandatory statutory compliance regarding Human Trafficking and E-Verify.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. EXTENSION OF TERM The Agreement is hereby amended to exercise the first one-year renewal option. The term of the Agreement is extended for one (1) year, commencing on **March 9, 2026**, and expiring on **March 8, 2027**. One (1) additional one-year renewal option remains under the terms of the original agreement.

2. AMENDMENT TO EXHIBIT A (PRICING SCHEDULE) The Agreement is hereby amended to include **Part III – Reimbursable Materials** to Exhibit A, as attached hereto and incorporated by reference.

3. HUMAN TRAFFICKING COMPLIANCE As a condition of this Agreement, the Contractor shall attest under penalty of perjury that the Contractor does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes. Attestations shall be documented using a **Human Trafficking Affidavit** as provided by the City. Pursuant to Section

787.06(13), Florida Statutes, the City is prohibited from executing, renewing, or extending a contract with an entity that uses coercion for labor or services.

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

- **Evidence of Compliance:** Contractor must provide an affidavit stating all employees hired on or after January 1, 2021, have been verified, along with proof of registration in the E-Verify system.
- **Subcontractors:** Contractor shall require all subcontractors to use the E-Verify system and obtain from them an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Copies of subcontractor affidavits must be provided to the City.
- **Breach:** Failure to comply is a material breach resulting in immediate termination. Contractor shall be liable for all costs incurred by the City in securing a replacement contract.

5. RATIFICATION All other terms and conditions of the Agreement shall remain in full force and effect.

By signing below, the parties have executed this Amendment which will be effective as of the date of the final signature.

EMPIRE COMPUTING & CONSULTING INC.

CITY OF COCOA

By: David A. Campos Jr.
(Print Name)

By: Stockton Whitten
(Print Name)

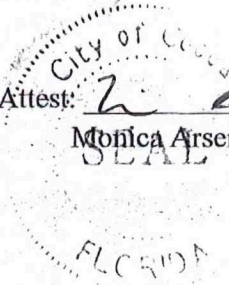
CEO/President
(Title)

City Manager
(Title)

[Signature] / 1/14/2026
Signature / Date

[Signature] 1/15/2026
Signature / Date

Attest: *[Signature]*
Monica Arsenault, City Clerk



**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part I - Information Technology Services Cost Schedule

Please provide a maximum hourly rate for each category of services your organization has been qualified to provide.

Category of Service	Mon-Fri 7 AM - 6 PM Maximum Hourly Rate	After-Hours & Holiday Maximum Hourly Rate
Network Architecture and Security	\$110.00	\$ 225.00
Wireless Network Support	\$110.00*	\$225.00

Pricing reflected on cost sheet is for single purchase items. Items in quantity or over dollar thresholds can be considered for manufacturer special pricing and additional discounting. Empire is an HPE Aruba Gold partner and a NASPO State of Florida participant. Empire also participates on NASPO with Cisco.

Empire can also offer purchasing opportunities through PEPPM, GSA and NCPA should the City so find necessary.

*The wireless network support above does not include the Radwin point to point wireless installation or maintenance which is covered under a separate contract.

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part II - Information Technology Equipment Cost Schedule

Please provide a minimum percentage discount for each category (in blue fields) or each item (in white fields). You may optionally exclude quoting a discount for any category or item by entering "No Bid".

Category	Minimum % Discount off	Category	Minimum % Discount off
1 - Network Equipment	%	6 - Memory	%
Ruckus	44%	Corsair	%
Cisco	35%	Crucial	%
Transition Networks	10%	Kingston	%
Fortinet*	18%	HP	%
2 - Server Equipment		7 - Desktop Computers	%
HP	25%	Dell	%
Cisco	35%	HP	%
3 - Storage	%	Lenovo	%
Barracuda	15%	8 - Laptop Computers	%
Dell/EMC	%	Apple	%
Fujitsu	%	Asus	%
HP	35%	Dell	%
Nimble	35%	HP	%
4 - Wireless Networking	%	Lenovo	%
Ruckus	35%	Panasonic	%
Cisco	35%	9 - Tablet Computers	
Radwin	20%	Apple	%
Ubiquiti*	0%	Asus	%
HPE Aruba*	35%	Panasonic	15%
5 - Network/Data Center	%	10 - Thin/Zero Clients	%
APC/Schneider	%	Dell/Wyse	%
Avocent	30%	11 - Monitors/Televisions/Projectors	%
Belkin	%	Dell	%
Berk-Tek	%	LG	%
Dymo	%	Samsung	%
Eaton	%	Sony	%
Emcor	%	Viewsonic	%
Leviton	%	Vizio	%
Middle Atlantic	%	12 - Audio/Visual Equipment	%
NetScout/Fluke	%	Verkada (entire line)*	30%
Siemans	%	13 - Telecom/VoIP	
Snake Tray	%	Jabra	%
Softing	%	Mitel/Shoretel	%
Startech	%		%
TrippA1:A34 Lite	%		%

*Additional offerings included under the first amendment to agreement P-20-20-COC

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part III – Reimbursable Materials

Where project-specific materials are required to complete a scope of work (e.g., cabling, conduit, specialized hardware, or components not specifically listed in Part II), the following reimbursement and markup standards shall apply:

Material Category	Pricing Standard
Direct Materials	Actual Net Cost (supported by original third-party supplier invoices)
Administrative Markup	10% (applied to verified net material cost only)
Sales Tax, Shipping, & Travel	Pass-through at actual cost (No markup permitted)

1. Verification Requirements:

All requests for material reimbursement must be accompanied by legible copies of the original third-party supplier invoices.

2. Consumables Exclusion:

Standard shop supplies, tools, and consumables are considered part of the Contractor’s overhead. Items with a unit cost under \$50.00 (e.g., drill bits, rags, fasteners, tape, or cleaning supplies) are not eligible for separate reimbursement or markup under this Part.

3. Procurement Protocol:

The Contractor shall utilize its purchasing power to obtain the most competitive pricing available for the City. For significant material purchases (exceeding \$5,000), the City may request proof of competitive quotes or elect to provide the materials to the Contractor directly.

HUMAN TRAFFICKING AFFIDAVIT

1. I am over the age of 18 and I have personal knowledge of the matters set forth except as otherwise set forth herein.
2. I currently serve as **CEO/President of Empire Computing & Consulting Inc.**
3. **Empire Computing & Consulting Inc.** does not use coercion for labor or services, as those terms are defined in Florida Statute 787.06.
4. This declaration is made pursuant to Florida Statute 92.525. I understand that making a false statement in this declaration may subject me to criminal penalties.

Under penalties of perjury, I, **David A. Campos Jr., CEO/President**, declare that I have read the foregoing Human Trafficking Affidavit and that the facts stated in it are true.

Further Affiant sayeth naught.

COMPANY

Empire Computing & Consulting Inc

NAME OF BUSINESS ENTITY



SIGNATURE

David A. Campos Jr., CEO/President

TYPE NAME AND TITLE

CONTRACTOR E-VERIFY AFFIDAVIT

I hereby certify that **Empire Computing & Consulting Inc.** does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with, section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of **Empire Computing & Consulting Inc.** proof of registration in the E-Verify system is attached to this Affidavit.



Print Name: **David A. Campos Jr.**

Date: 1/14/2026

STATE OF FLORIDA

COUNTY OF Volusia

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 1/14/2026 (date) by **David A. Campos Jr., CEO/President** of **Empire Computing & Consulting Inc.**, a **FLORIDA** corporation, on behalf of the corporation. He/she is personally known to me or has produced FLDL (type of identification) as identification.

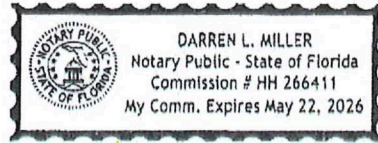


[Notary Seal] Notary Public

Darren L Miller

Name typed, printed or stamped

My Commission Expires: May 22, 2026





Purchasing Division

65 Stone Street • Cocoa, FL 32922

PHONE: (321) 433-8833

EMAIL: purchasing@cocoafl.gov

www.CocoaFL.gov

TO: Stockton Whitten, City Manager

FROM: Brian Dale, Procurement and Budget Manager

DATE: December 19, 2025

RE: Execution of Amendment 2 to Agreement P-20-20-COC – Empire Computing & Consulting Inc.

The City uses Empire to purchase IT equipment, perform server maintenance and install security monitoring equipment. This amendment exercises the first of two optional one-year renewals, extending the contract term from March 9, 2026, through March 8, 2027.

In addition to the term extension, Amendment 2 incorporates essential updates to our pricing and compliance standards. Specifically, it establishes a 10% administrative markup on miscellaneous project materials—supported by third-party invoices—and integrates mandatory Florida statutory language regarding Human Trafficking (Section 787.06, F.S.) and E-Verify (Section 448.095, F.S.). These additions ensure the agreement remains competitive for the City while meeting all current state legal requirements.

City Council authorized you to negotiate and execute the agreement in agenda item 21-173. I believe this authorization should extend to amendments and renewals.

Please feel free to contact me if you have any questions regarding these updates.

Serving our community with P.R.I.D.E!

Stay Connected      



City of Cocoa

65 Stone Street
Cocoa, FL 32922

Legislation Text

File #: 21-173, Version: 1

CITY COUNCIL AGENDA ITEM

Memo Date: February 18, 2021
Agenda Date: March 9, 2021
Prepared By: Robert Beach, Chief Technology Officer
Requested Action:

Approve the Request for Qualifications (RFQ) Review Committee Recommendation of a multi-vendor, multi-year award for professional services and hardware for Systems Administration; Network Architecture and Security; Wireless Network Support; Storage and Backups; Virtualization Support; Application/Database Development and Support; Audio/Visual Support and Desktop Support for RFQ #20-20-COCO, Professional IT Services. To authorize the City Manager to Negotiate and Execute Continuing Services Agreements with the recommended firms.

BACKGROUND:

Currently, the City piggybacks off competitively bid CSA agreements of other municipalities that may or may not have terms favorable to the needs of the City of Cocoa. The Information Technology Department staff has prepared Requests for Qualifications for various areas of anticipated future work. The selection of qualified consultants was based on an evaluation point scoring methodology. The RFQ Review Committee, consisting of four members from the IT Department scored submittals by use of measurable evaluation factors consisting of experience; qualifications; capability; past performance; references and local preference (office locations).

The following firms are recommended for CSA contract award.

1. Advanced Systems Solutions Inc.
2. Empire Computing and Consulting
3. IM Solutions Inc.
4. Integrated Fire and Security Solutions
5. Network Support Co.
6. Valeo Networks

Categorically, vendors shall provide the following professional services and related hardware equipment:

Systems Administration

- Advanced Systems Solutions Inc.
- Network Support Co.
- Valeo Networks

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Network Architecture and Security

- Advanced Systems Solutions Inc.
- Empire Computing and Consulting
- Network Support Co.
- Valeo Networks

Wireless Network Support

- Advanced Systems Solutions Inc.
- Empire Computing and Consulting
- Network Support Co.

Storage and Backups

- Advanced Systems Solutions Inc.
- Network Support Co.
- Valeo Networks

Virtualization Support

- Advanced Systems Solutions Inc.
- Network Support Co.
- Valeo Networks

Application/Database Development and Support

- Advanced Systems Solutions Inc.
- Network Support Co.

Audio/Visual Support

- IM Solutions, Inc.
- Integrated Fire & Security Solutions

Desktop Support

- Advanced Systems Solutions, Inc.
- Network Support Co.

Staff requests Council to authorize the City Manager to negotiate and execute Continuing Services Agreements with the firms listed above. This agreement shall be for a period of five (5) years with two (2), one (1) year renewal options. There is no budgetary impact at this time as services will be on an as-needed basis. Estimated budget for these services will be included in each year's adopted budget. Task Orders for planned and budgeted projects will proceed once the City Manager has executed the contracts. Future Task Orders with costs that exceed the City Manager's signing authority will be presented for council approval.

STRATEGIC PLAN CONNECTION:

Continuing Services Agreements with qualified firms to provide professional information technology services on an as-needed basis will reduce time needed to begin and complete future technology

File #: 21-173, Version: 1

related projects. These projects will improve the city's effectiveness and responsiveness to its residents and business partners. The negotiated hourly rates will reduce expenditure risks and will allow the city to control long term costs supporting fiscal sustainability.

BUDGETARY IMPACT:

Budgeted	N/A
If not budgeted, is amendment/transfer attached?	N/A

PREVIOUS ACTION:

The City Council previously approved IT Professional Services contracts on an as-needed basis on May 23, 2019. Those contracts are currently expired.

RECOMMENDED MOTION:

Approve the Request for Qualifications (RFQ) Review Committee Recommendation of a multi-vendor, multi-year award for professional services and hardware for Systems Administration; Network Architecture and Security; Wireless Network Support; Storage and Backups; Virtualization Support; Application/Database Development and Support; Audio/Visual Support and Desktop Support for RFQ #20-20-COCO, Professional IT Services. To authorize the City Manager to Negotiate and Execute Continuing Services Agreements with the recommended firms.



DS
JR



CONTRACT EXECUTIVE OVERVIEW

Vendor Name: Empire Computing & Consulting, Inc.
 Bid/Contract Ref # Contract 20-20 Completed under competitive RFP
 Agency Name: City of Cocoa
 Contract Type: Piggyback

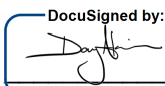
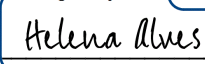
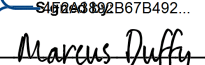
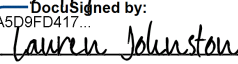
Contract Value OVER \$50K

Resolution # 2024- 112 City Council Approval Date: August 6, 2024
 Contract Term End Date 3/9/2026
 Renewable Y/N Y If yes # and length of renewals: Two (2) each one (1) year renewals
 City's Project Manager(s) Mark Aiello

Brief Description/Purpose:

To utilize the terms, conditions, scope and pricing of the City of Cocoa, FL
Agreement for IT Professional Consulting (specifically the disciplines of
Application/Database Development & Support, Audio/Visual Support, and Physical
Security) as needed.

Approvals:

Responsible Dept. Director	 DocuSigned by: AEF03B4E4CD54EE...	Date: <u>Aug 16, 2024 9:06 AM EDT</u>
City Finance	 Signed by: AEF03B4E4CD54EE...	Date: <u>Aug 16, 2024 11:24 AM EDT</u>
City Attorney	 Signed by: AEF03B4E4CD54EE...	Date: <u>Aug 17, 2024 10:34 PM EDT</u>
Acting City Manager	 DocuSigned by: A9D59FA5D9FD417... 17644D609F7D434...	Date: <u>Aug 18, 2024 9:47 AM EDT</u>

Vendor Name and Email Dale Slack dale@empirecomputing.com



City of PALM COAST

Finance Department
Budget & Procurement Office

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

EMPIRE COMPUTING & CONSULTING, INC.
Dale Slack
120 N. Frederick Ave.
Daytona, FL 32114

RE: Engagement Letter Authorizing Piggyback

Contract 20-20 Completed Under Competitive RFP
Contract Name

City of Cocoa, FL
Contract Reference

Dear Dale,

The City of Palm Coast, Florida requests permission to utilize your company's above referenced contract in accordance with its terms and conditions and pricing. If agreed, please indicate approval by electronically signing below as well as the Addendum covering the E-Verify and Public Records requirements.

Contractor is aware of and agrees to comply with the requirements of Florida Statutes § 287.138. To the extent that, under this Agreement, Contractor has access to personal identifying information, Contractor agrees that: Contractor is not owned by the government of a foreign country of concern; the government of a foreign country of concern does not have a controlling interest in Contractor; and Contractor is not organized under the laws of and does not have its principal place of business in a foreign country of concern. Per Florida Statutes § 287.138(1)(c), "foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern. Breach of this provision shall be considered a material breach of this Agreement and shall entitle City to, in its sole discretion, terminate this Agreement.

All invoices should be sent via email to ap@palmcoastgov.com. If email is not possible, please mail invoices to: City of Palm Coast, Attn: Accounts Payable, 160 Lake Avenue, Palm Coast, Florida 32164. All legal notices should be sent to the attention of the City Manager at the same address.

Please feel free to contact me at the email address below if you have any questions.

Regards,
Shannon Nolan
Shannon Nolan
Procurement Coordinator
sknolan@palmcoastgov.com

This Engagement Letter is hereby acknowledged and agreed to:

CITY OF PALM COAST

EMPIRE COMPUTING & CONSULTING, INC.

By: DocuSigned by:
Lauren Johnston

By: Dale Slack
(Authorized Signatory)

Print: 17644D609F7D434...
Lauren Johnston

Print Name: Dale Slack
Title: Senior Systems Engineer

Title: Acting City Manager

Date: Aug 16, 2024 | 5:54 AM PDT

Date: Aug 18, 2024 | 9:47 AM EDT



ENGAGEMENT LETTER ADDENDUM**1. E-Verify Registration and Use.**

“Effective January 1, 2021, public and private employers, contractors and subcontractors must require registration with, and use of the E-verify system to verify the work authorization status of all newly hired employees. Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Contractor to perform employment duties within Florida during the term of the contract; and*
- b) All persons (including sub vendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City. The Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Palm Coast.*

By entering into this Agreement, the Contractor becomes obligated to comply with the provisions of Section 448.05, F.S. (2023), “Employment Eligibility,” as amended from time to time. This includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to execute the same affidavit and to maintain a copy of such affidavits for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, F.S. (2023), as amended, and the Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to City incurred because of the termination of this Agreement in accordance with this section.”

2. Prohibition against considering social, environmental, political, or ideological interests in government contracting

Pursuant to Section 287.05701, F.S., the City cannot give preference to a Contractor based on the Contractor’s social, political, or ideological interests such as:

- a. The Contractor’s political opinions, speech, or affiliations.*
- b. The Contractor’s religious beliefs, religious exercise, or religious affiliations.*
- c. The Contractor’s lawful ownership of a firearm.*
- d. The Contractor’s lawful engagement in lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.*
- e. The Contractor’s engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.*
- f. The Contractor’s support of the state or federal government in combating illegal immigration, drug trafficking, or human trafficking.*
- g. The Contractor’s engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described herein.*
- h. The Contractor’s failure to meet or commit to meet, or expected failure to meet, any of the following as long as such Contractor is in compliance with applicable state or federal law: 1) environmental standards, including emissions standards, benchmarks, requirements or disclosures; 2) social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice; corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.*

3. Scrutinized Companies

A. Contractor hereby certifies that it: a) has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel; b) has not been placed on the Scrutinized Companies with Activities in Sudan List nor the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and c) has not been engaged in business operations in Cuba or Syria. If City determines that Contractor has falsely certified facts under this paragraph or if Contractor is found to have been placed on the Scrutinized Companies Lists or is engaged in a boycott of Israel after the execution of this Contract, City will have all rights and remedies to terminate this Contract consistent with Section 287.135, F.S., as amended. The City reserves all rights to waive the certifications required by this paragraph on a case-by-case exception basis pursuant to Section 287.135, F.S., as amended.

4. Public Records.

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

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

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

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

CITY OF PALM COAST

By: DocuSigned by:
Lauren Johnston
17644D609F7D434...

Print: Lauren Johnston

Title: Acting City Manager

Date: Aug 18, 2024 | 9:47 AM EDT

EMPIRE COMPUTING & CONSULTING, INC.

By: DocuSigned by:
Dale Slack
789849A6515474...

Print Name: Dale Slack

Title: Senior Systems Engineer

Date: Aug 16, 2024 | 5:54 AM PDT

FORM 7 – PUR 1355

**FOREIGN COUNTRY OF CONCERN ATTESTATION
(PUR 1355)**

This form must be completed by an officer or representative of an entity submitting a bid, proposal, or reply to, or entering into, renewing, or extending, a contract with a Governmental Entity which would grant the entity access to an individual's Personal Identifying Information. Capitalized terms used herein have the definitions ascribed in [Rule 60A-1.020, F.A.C.](#)

Empire Computing & Consulting is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: **Dale Slack**

Title: **Senior Systems Engineer**

Signature: **Dale Slack**
DocuSigned by:
788F849A5F15474...

Date: **Aug 16, 2024 | 5:54 AM PDT**

BPO Mgr. Approval

DS
MR



CONTRACT EXECUTIVE OVERVIEW

Vendor Name: EMPIRE COMPUTING & CONSULTING, INC.

Bid/Contract Ref # CONTRACT 20-20 COMPLETED UNDER COMPETITIVE RFP

Agency Name: CITY OF COCOA, FL

Contract Type: PIGGYBACK

Contract Value Under \$50K

Resolution # n/a

City Council Approval Date: n/a

Contract Term End Date 3/9/2026

Renewable Y/N YES

If yes # and length of renewals: Two (2) each one (1) year renewal options

City's Project Manager(s) Mark Aiello

Brief Description/Purpose:

To utilize the terms, conditions, scope and pricing of the City of Cocoa, FL Agreement for IT Professional Consultant Services (specifically the disciplines of Application/Database Development & Support, Audio/Visual Support, and Physical Security), as needed.

Approvals:

Responsible Dept. Director <u>Doug Akins</u>	DocuSigned by: <u>AEF03B4E4CD54EE...</u>	Date: <u>Aug 15, 2023 10:56 AM EDT</u>
City Finance <u>Helena Alves</u>	DocuSigned by: <u>4F2A3892B67B492...</u>	Date: <u>Aug 15, 2023 11:14 AM EDT</u>
City Attorney <u>Musa Barkat</u>	DocuSigned by: <u>E1D83E71806D418...</u>	Date: <u>Aug 15, 2023 11:41 AM EDT</u>
City Manager <u>Denise Berman</u>	DocuSigned by: <u>B8F859DE5A4147C...</u>	Date: <u>Aug 15, 2023 11:45 AM EDT</u>

Vendor Name and Email Dale Slack dales@empirecomputing.com



City of PALM COAST

Finance Department
Budget & Procurement Office

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

EMPIRE COMPUTING & CONSULTING, INC.
Dale Slack
120 N. Frederick Ave.
Daytona, FL

RE: Engagement Letter Authorizing Piggyback

CONTRACT 20-20 COMPLETED UNDER COMPETITIVE RFP

Contract Name

City of Cocoa, FL

Contract Reference

Dear Dale,

The City of Palm Coast, Florida requests permission to utilize your company's above referenced contract in accordance with its terms and conditions and pricing. If agreed, please indicate approval by electronically signing below as well as the Addendum covering the E-Verify and Public Records requirements.

All invoices should be sent via email to ap@palmcoastgov.com. If email is not possible, please mail invoices to: City of Palm Coast, Attn: Accounts Payable, 160 Lake Avenue, Palm Coast, Florida 32164. All legal notices should be sent to the attention of the City Manager at the same address.

Please feel free to contact me at the email address below if you have any questions.

Regards,

Jesse K. Scott

Jesse K. Scott
Procurement Coordinator
jkscott@palmcoastgov.com

This Engagement Letter is hereby acknowledged and agreed to:

CITY OF PALM COAST

DocuSigned by:

Denise Bevan

B8F859DE5A4147C...

EMPIRE COMPUTING & CONSULTING, INC.

DocuSigned by:

Dave Campos

40F8344A50807B... (Authorized Signatory)

Print: Denise Bevan

Title: City Manager

Date: Aug 15, 2023 | 11:45 AM EDT

Print Name: Dave Campos

Title: President/CEO

Date: Aug 15, 2023 | 7:55 AM PDT



please recycle

palmcoastgov.com

ENGAGEMENT LETTER ADDENDUM

1. E-Verify Registration and Use.

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

B. Subcontractors

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

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

(iii) SUPPLIER shall maintain a copy of all subcontractor affidavits for the duration of this Agreement and provide it to CTIY upon request.

C. SUPPLIER must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the SUPPLIER stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system.

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

2. Public Records.

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

i. Keep and maintain all public records required by CITY to perform the Services herein; and

ii. Upon request from CITY's custodian of public records, provide CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law; and

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement Term and following completion of the Agreement if SUPPLIER does not transfer the records to CITY; and

iv. Upon completion of the Agreement, transfer, at no cost, to CITY all public records in possession of SUPPLIER or keep and maintain public records required by CITY to perform the Services herein. If SUPPLIER transfers all public records to CITY upon completion of the Agreement, SUPPLIER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SUPPLIER keeps and maintains public records upon completion of the Agreement, SUPPLIER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CITY, upon request from CITY'S custodian of public records, in a format compatible with the information technology systems of CITY.

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

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

CITY OF PALM COAST

DocuSigned by:

Denise Bevan

B8F859DE5A4147C...

Print: Denise Bevan

Title: City Manager

Date: Aug 15, 2023 | 11:45 AM EDT

EMPIRE COMPUTING & CONSULTING, INC.

DocuSigned by:

Dave Campos

(Authorized Signatory)
40F834A05089475...

Print Name: Dave Campos

Title: President/CEO

Date: Aug 15, 2023 | 7:55 AM PDT



CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

This Agreement made and entered into on the 29th day of January, 2021 by and **Empire Computing & Consulting Inc.**, authorized and duly licensed to do business in the State of Florida, hereinafter called the CONTRACTOR, with an address of **120 N. Frederick Ave., Daytona, FL 32114** and the City of Cocoa, a municipal corporation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the CITY or OWNER, with an address of 65 Stone Street, Cocoa, Florida 32922.

WITNESSETH

WHEREAS, City has a need to obtain non-engineering related consulting services regarding Information Technology ("IT"), specifically the disciplines of Application/Database Development & Support, Audio/Visual Support, and Physical Security from time to time on an as-needed, task oriented basis; and

WHEREAS, this is not an engineering or construction services agreement governed by the Florida's Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes; and

WHEREAS, CONTRACTOR is willing to provide such services to the City under the terms and conditions stated herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

Witnessed that the CONTRACTOR and the City, for the Consideration herein-after named, agree as follows:

1. TERM AND DEFINITIONS –

- 1.1. Unless sooner terminated by either Party pursuant to the terms and conditions herein, this Agreement shall terminate on the fifth (5th) anniversary of the Effective Date. The Parties shall have the option to extend the term of this Agreement by mutual agreement for up to two (2) additional one-year renewals. Such an extension shall only be by written amendment and approved by the City Manager.
- 1.2. The terms and conditions of any Task Order, as described in Section 2 hereof, shall be as set forth in such Task Order. Any Task in effect at the termination of this Agreement shall remain in effect until completion of said Task Order, and all of the terms and conditions of this Agreement shall survive until completion of all Task Orders.
- 1.3. **Definitions.** The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

- a. "Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as amended from time to time, which shall constitute authorization for the Consultant to provide the Consulting services approved by Task Order by the City and is also sometimes referred to herein to include all Task Orders approved hereunder.
- b. "Effective Date" shall be the date on which the last signatory hereto shall execute this Agreement, and it shall be the date on which this Agreement shall go into effect. The Agreement shall not go into effect until said date.
- c. "Consultant" shall mean Empire Computing & Consulting Inc., a _S-Corporation_, and its principals, employees, resident project representatives (and assistants).
- d. "Public Record" shall have the meaning given in Section 119.011(1), Florida Statutes.
- e. "Reimbursable Expenses" shall mean the actual expenses incurred by Consultant or Consultant's independent professional associates and consultants which are directly related to travel and subsistence at the rates, and under the requirements of, Section 112.061, Florida Statutes, or any other actual and direct expenses the City agrees to reimburse by Task Order.
- f. "Work" or "Services" shall be used interchangeably and shall include the performance of the IT consulting work agreed to by the parties in a Task Order.
- g. "Task Order" shall mean a written document approved by the parties pursuant to the procedure outlined in paragraph 2 of this Agreement, and any amendments thereto approved pursuant to the procedures outlined in paragraph 2 herein, which sets forth the Work to be performed by Consultant under this Agreement, and shall include, without the necessity of a cross-reference, the terms and conditions of this Agreement.

1.4. **Engagement.** The City hereby engages the Consultant and Consultant agrees to perform the Services outlined in this agreement for the stated fee arrangement. No prior or present representations shall be binding upon any of the parties hereto unless incorporated in this Agreement.

2. **DESCRIPTION OF SERVICES; RATE SCHEDULE** - CONTRACTOR shall perform on an as needed basis Information Technology consulting services on a "task" basis. In general, such services may include, but not be limited to, Application/Database Development & Support, Audio/Visual Support, and Physical Security. (EXHIBIT A - PRICING SCHEDULE).

2.1. The services to be performed pursuant to each Task Order shall fall within the general Scope of Work. When the City desires to enter into a specific Task Order, the City will communicate with Consultant, verbally or in writing, a general description of the task to be performed. The CONTRACTOR will generate a detailed Scope of Work document, prepare a Schedule, add a

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

fee component (e.g. straight hourly rate for work performed, a not to exceed fee amount, or a lump sum fee amount) with a detailed cost breakdown to accomplish the task, and send the thus developed "Task Proposal" to the City. The detailed cost breakdown of the fee shall consist of a list of major sub-tasks and a man-hour breakdown for all work to be performed. The cost breakdown shall include all subconsultant work and the Task Proposal shall include the written price proposals from all subconsultants. The detailed cost breakdown shall include a line item for Reimbursable Expenses and the list of the expenses proposed to be eligible for reimbursement. The City will review the Task Proposal, and if the description is mutually acceptable, the parties will enter into a written "Task Order". The Scope of Services generally to be provided by the CONTRACTOR through a Task Order may include any consulting services for any City project and may contain written terms and conditions which are deemed supplemental to this Agreement.

- 2.2. The City will issue a notice to proceed to the CONTRACTOR in the form of a letter and an executed City purchase order. Upon receipt of the signed Task Order and the written notice to proceed from the City, the CONTRACTOR shall perform the services set forth in the Task Order.
3. The City reserves the right, at its discretion, to perform a service related to this Agreement or to retain the services of other consulting companies to provide professional IT Consultant Services.
4. The CONTRACTOR shall not provide a minimum and maximum hourly rates table as reference to the City and will be herein to set forth as an exhibit to this Agreement.

5. **CHANGES IN SCOPE OF WORK** –

- 5.1. City may make changes in the Services at any time by giving written notice to CONTRACTOR. If such changes increase (additional services) or decrease or eliminate any amount of Work, City and CONTRACTOR will negotiate any change in total cost or schedule modifications. If the City and the Consultant approve any change, the Task Order will be modified in writing to reflect the changes; and Consultant shall be compensated for said services in accordance with the terms of herein. All change orders shall be authorized in writing by City's and Consultant's designated representative.
- 5.2. All of the City's said Task Orders and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.

6. **SCHEDULE** –

- 6.1. Consultant shall perform services in conformance with the mutually agreed schedule set for in negotiated Task Orders issued. Consultant shall complete all of said services in a timely manner and will keep the City apprised of the status of work on at least a monthly basis or as otherwise reasonably requested by the City. Should the Consultant fall behind on any agreed

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

upon schedule, it shall employ such resources so as to comply with the schedule both parties mutually agreed upon.

- 6.2. No extension for completion of services shall be granted to Consultant without the City's prior written consent, except as provided herein.
- 6.3. Any cost caused by defective or ill-timed services shall be borne by the party responsible thereof.

7. **METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF CONSULTANT** –

- 7.1. **General Services.** For basic and additional Services performed by the Consultant's principals, employees, and resident project representatives (and assistants) pursuant to paragraphs 1.1 and 1.2, the City agrees to pay the Consultant an amount equal to that agreed upon by the parties for a particular Task Order. However, payment terms must be consistent with the terms and conditions in this Agreement. To the extent that the payment terms in any Task Order conflict with the payment terms set forth in this Agreement, the conflicting provisions of this Agreement shall prevail.
- 7.2. **Additional Services Performed by Professional Associates and Consultants.** For additional Services and Reimbursable Expenses of independent professional associates and consultants employed by Consultant to render additional Services pursuant to paragraphs 1.1 and 1.2, the City agrees to pay the Consultant an amount equal to that billed Consultant by the independent professional associates and consultants. Prior to payment by the City, the Consultant shall submit to the City a copy of any written invoice received by Consultant from all independent professional associates and consultants which clearly evidences the amount billed by the independent professional associates and consultants for additional Services and any Reimbursable Expenses.
- 7.3. **Witness Services.** For witness or expert services rendered by Consultant's principals, employees, resident project representatives (and assistants), and independent professional associates and consultants on behalf of the City in any litigation, arbitration, or other legal or interested administrative proceeding in which the City is a named interested party, City agrees to pay the Consultant or independent professional associate or consultant, which is used as a witness or expert, an amount equal to that agreed upon by the party for a particular Task Order. All witness or expert witness services shall be subject to the direction of the City Attorney and must be coordinated and approved by the City Attorney in advance. When performing such services for the City, Consultant shall be bound by any attorney-work product public records exemption laws and rules.
- 7.4. **Florida Prompt Payment Act.** Payment shall be due and payable as provided by the Florida Local Government Prompt Payment Act s218.70 et. Seq., Florida Statutes.

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

- 7.5. **Miscellaneous.** Under no circumstances shall actual or direct costs under this Agreement include costs associated with in efficiency, offsite or home office overhead, loss of productivity, consequential damages, legal or consulting costs, or costs associated with delays caused in whole or in part by the Consultant.
- 7.6. **Errors and Deficiencies.** Consultant shall not invoice the City or seek any compensation from the City to correct or revise any errors or deficiencies in Consultant's services provided under this Agreement.
- 7.7. **Payment Offsets.** To the extent that Consultant owes the City any money under this or any other Agreement with the City, the City shall have the right to withhold payment and otherwise back charge the Consultant for any money owed to the City by Consultant.
- 7.8. **Payment not Waiver.** The City's payment of any invoice under this Agreement shall not be construed or operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement and Consultant shall remain liable to the City in accordance with applicable law for all damages to the City caused by Consultant's performance of any services provided under this Agreement.
- 7.9. **Delay Remedy.** The risk of any monetary damages caused by any delays in performing the Services under this Agreement and any Task Order are accepted and assumed entirely by the Consultant, and in no event shall any claim relating thereto for an increase in compensation be made or recognized. Consultant shall not make any claim nor seek any damages of any kind against the City for any delays, impacts, disruption, or interruption caused by any delay. Consultant's remedy for a delay shall be an equitable extension of time to perform the Services for each day of such delay that impacts the critical path of the schedule established under this Agreement or specific Task Order.
- 7.10. **Acceptance of Payment.** Acceptance of final payment by the Consultant for a specific Task Order shall constitute a release of all claims for payment which the Consultant may have against the City for that Task Order unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.
- 7.11. **Payment Adjustments.** It is agreed that payment by the City of any billing will not constitute agreement as to the appropriateness of any item and that at the time of any final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the Consultant, the Consultant agrees to refund such overpayment to the City within ninety (90) days of notice of any such overpayment. Such refund shall not constitute a waiver by the Consultant for any claims relating to the validity of a finding by the City of overpayment.

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7.12. **Partial Payments.** Payment made to the Consultant shall not constitute acceptance of the work or any portion thereof which is not in accordance with this Agreement. The City retains the right to pay only that percentage of the total contract amount that equals the same percentage that work completed bears to the total amount of work required to be performed under this Agreement. If the City objects to all or any portion of any invoice, it shall notify the Consultant of the same within five (5) days from the date of receipt and shall pay that portion of the invoice not in dispute. The parties shall immediately make every effort to settle the disputed portion.

8. **RIGHT TO INSPECTION** –

8.1. City or its affiliates shall at all times have the right to review or observe the Services performed by Consultant.

8.2. No inspection, review, or observation shall relieve Consultant of its responsibility under this Agreement.

9. **PROGRESS MEETING** –

9.1. City's designated Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the City, during the term of any Task Order entered into under this Agreement. Consultant's Project Manager and all other appropriate personnel shall attend such meetings as designated by City's Project Manager.

10. **SAFETY** –

10.1. Consultant shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, resident project representatives (and assistants) while performing Services provided hereunder.

11. **REASONABLE ACCESS** –

11.1. During the term of this Agreement, City shall grant Consultant reasonable access to the City's premises, records, and files for purposes of fulfilling its obligations under this Agreement.

12. **INSURANCE** –

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

a. **Professional Liability.** Proof of professional liability insurance shall be provided to the City for the minimum amount of \$1,000,000 as the combined single limit per claim and \$1,000,000 in the aggregate.

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- b. The Consultant shall maintain comprehensive general liability insurance in the minimum amount of \$1,000,000 as the combined single limit for each occurrence to protect the Consultant from claims of property damages and personal injury which may arise from any Services performed under this Agreement whether such Services are performed by the Consultant or by anyone directly employed by or contracting with the Consultant, and with a deductible not greater than \$5,000.00.
- c. The Consultant shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$50,000 property damage as the combined single limit for each occurrence to protect the Consultant from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant.
- d. The Consultant shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.

12.2. **Special Requirements.** Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. There shall also be a thirty (30) day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. The City shall be an additional named insured on stipulated insurance policies included in article 10.1.b and 10.1.c herein, as its interest may appear, from time to time.

12.3. The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty (30) days' prior written notice has been given to the City, and the Consultant by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that the Consultant shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill the Consultant. The Consultant shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance or provided through the London Market for Professional Liability Insurance. Unless agreed to by the City to the contrary, the City shall be named on the insurance policies included

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in article 10.1.b and 10.1.c as "additional insured." The Consultant shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by the Consultant in accordance with this Article on the basis of its not complying with the Agreement, the City shall notify the Consultant in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, the Consultant shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

- 12.4. **Independent Associates and Consultants.** All independent associates and consultants employed by Consultant to perform any Services hereunder shall fully comply with the insurance provisions contained in this paragraph.

13. COMPLIANCE WITH LAWS AND REGULATIONS –

- 13.1. Consultant shall comply with all requirements of federal, state, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of Services under this Agreement.

14. REPRESENTATIONS –

- 14.1. Consultant represents that the Services provided hereunder shall conform to all requirements of this Agreement and any Task Order, shall be consistent with recognized and sound Consulting practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered. Consultant shall perform as expeditiously as is consistent with professional skill and care and the orderly progress of the Services performed hereunder. Consultant's services shall be consistent with the time periods established under this Agreement or the applicable Task Order. Consultant shall provide City with a written schedule for services performed under each Task Order and such schedule shall provide for ample time for the City to reviews, for the performance of consultants (if any), and for the approval of submissions by authorities having jurisdiction over the services. The Consultant's designated representative shall have the authority to act on Consultant's behalf with respect to the Services. In addition, Consultant's representative shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services. Except with the City's knowledge and consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Consultant's professional judgment with respect to the Services. The Consultant shall review laws, codes, and regulations applicable to Consultant's Services. The Consultant's services and design shall comply with all applicable

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requirements imposed by all public authorities. The Consultant represents and warrants that it is familiar with and accepts that it will perform the Services hereunder in a manner that complies with all applicable requirements of law, codes, and regulations. Consultant shall be responsible for the professional quality, technical accuracy and the coordination of all plans, studies, reports and other services furnished to the City under this Agreement. Unless this Agreement is terminated by the City, or terminated by Consultant for nonpayment of any proper invoices, or the City exercises its rights to perform the Services pursuant to under Paragraph 2.2 herein, Consultant shall be responsible for the satisfactory and complete execution of the Services described in this Agreement and any Task Order. The Consultant represents that it will carefully examine the scope of services required by the City in and Task Order, that it will investigate the essential requirements of the services required by the Task Order, and that it will have sufficient personnel, equipment, and material at its disposal to complete the services set forth in the Task Order in a good professional and workmanlike manner in conformance with the requirements of this Agreement.

14.2. Consultant represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

15. GUARANTEE AGAINST INFRINGEMENT –

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

16. DOCUMENTS –

16.1. **Public Records.** Pursuant to Section 119.0701, Florida Statutes and other applicable public records laws, Consultant agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Consultant related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Consultant. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form,

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characteristics, or means of transmission of Consultant are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, THE CITY CLERK, AT (321) 433-8484, cshealy@cocoafll.org, City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

Consultant is required to and agrees to comply with public records laws. Consultant shall keep and maintain all public records required by the City to perform the services as agreed to herein. Consultant shall provide the City, upon request from the City Clerk, copies of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by law. Consultant shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term. Upon completion of the Agreement, Consultant shall transfer to the City, at no cost, all public records in possession of the Consultant, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, the Consultant shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Consultant of the request and the Consultant shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If the Consultant does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Consultant acknowledges that if the Consultant does not provide the public records to the City within a reasonable time, the Consultant may be subject to penalties under Section 119.10, Florida Statutes. The Consultant acknowledges that if a civil action is filed against the Consultant to compel production of public records relating to this Agreement, the court may assess and award against Consultant the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of the Consultant, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Consultant to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If the Consultant fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Consultant's failure to comply with this Section, the City shall collect from Consultant

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prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Consultant. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of the Consultant's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

- a. **Reuse of Documents.** All documents, including but not limited to, drawings, specifications, and data, or programs stored electronically or otherwise, prepared by the Consultant and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein shall be owned by the City and may be reused by the City for any reason or purpose at any time. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by the Consultant, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to the Consultant.
- b. **Ownership of Documents.** The City and the Consultant agree that upon payment of fees due to the Consultant by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Consultant in the performance of this Agreement, or any Work hereunder, shall be the sole property of the City, and the City is vested with all rights therein. The Consultant waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Consultant in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of the Consultant or not.
- c. **Preexisting Ownership Rights to Documents.** Notwithstanding any provisions to the contrary contained in this Agreement, Consultant shall retain sole ownership to its preexisting information not produced and paid for by the City under this Agreement including, but not limited to computer programs, software, standard details, figures, templates and specifications

17. **ASSIGNMENT** –

- 17.1. Consultant shall not assign or subcontract this Agreement, any Task Order hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of City.
- 17.2. If upon receiving written approval from City, any part of this Agreement is subcontracted by Consultant, Consultant shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

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- 17.3. If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Consultant who shall take immediate steps to remedy the situation.
- 17.4. If any part of this Agreement is subcontracted by Consultant, prior to the commencement of any Work by the subcontractor, Consultant shall require the subcontractor to provide City and its affiliates with insurance coverage as set forth by the City.

18. INDEPENDENT CONTRACTOR –

- 18.1. At all times during the term of this Agreement, Consultant shall be considered an independent contractor and not an employee of the City.
- 18.2. Consultant defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, in which case the Consultant shall have such time as is reasonably necessary to remedy the default, provided the Consultant promptly takes and diligently pursues such actions as are necessary therefor; or
- 18.3. Consultant is adjudicated bankrupt or makes any assignment for the benefit of creditors or Consultant becomes insolvent, or is unable or unwilling to pay its debts; or
- 18.4. Consultant has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or
- 18.5. Consultant has committed any act of fraud or any other unlawful act upon the City or another party; or
- 18.6. Consultant has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.
- 18.7. Consultant has assigned this Agreement or any Task Order without the City's prior written consent.
- 18.8. Notwithstanding the aforementioned, in the event of a default by Consultant, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.
- 18.9. In the event of such termination upon default and breach of this Agreement, any completed services performed by the Consultant under this Agreement shall, at the option of the City, become the City's property and the Consultant shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Consultant, however,

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shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the City, and the City may withhold any payments to the Consultant for the purpose of setoff until such time as the amount of damages due to the City from the Consultant can be determined.

19. TERMINATION –

19.1. Notwithstanding any other provision of this Agreement, City may, upon written notice to Consultant, terminate this Agreement for convenience, without penalty, upon thirty (30) days advance written notice. In the event of such termination, City shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed to the satisfaction of the City prior to the effective date of termination.

20. FORCE MAJEURE –

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

21. GOVERNING LAW & VENUE –

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

22. HEADINGS –

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

23. SEVERABILITY –

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

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24. WAIVER AND ELECTION OF REMEDIES –

- 24.1. Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.
- 24.2. No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

25. THIRD PARTY RIGHTS –

- 25.1. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.

26. PROHIBITION AGAINST CONTINGENT FEES –

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

27. ENTIRE AGREEMENT –

- 27.1. This Agreement, including any Task Orders and Schedules, Attachments, Appendix's and Exhibits attached hereto, constitute the entire agreement between City and Consultant with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

28. NO JOINT VENTURE –

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

29. ATTORNEY'S FEES –

- 29.1. Should any litigation arise concerning this Agreement between the parties, the parties agree to bear their own costs and attorney's fees.

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30. COUNTERPARTS –

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

31. DRAFTING –

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

32. NOTICE –

32.1. Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

CONSULTANT

Empire Computing & Consulting Inc.
Attn: Dave Campos / President – CEO
120 N. Frederick Ave
Daytona, FL 32114
P: (386) 253-6506
E: davec@empirecomputing.com

FOR THE CITY

City of Cocoa
Attn: City Manager
65 Stone Street
Cocoa, FL 32922
P: (321) 433-8833
E: purchasing@cocoafl.org

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

32.3. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

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33. SOVEREIGN IMMUNITY –

33.1. The City intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. Consultant agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

34. CORPORATE REPRESENTATIVE BY CONSULTANT –

- 34.1. Consultant hereby represents and warrants to the City the following:
- a. Consultant is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.
 - b. The undersigned representative of Consultant has the power, authority, and legal right to execute and deliver this Agreement on behalf of Consultant.

35. INDEMNIFICATION AND LIMITATION OF LIABILITY –

35.1. The Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, costs or suits, including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance or non-performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

35.2. Consultant shall also indemnify and hold harmless the City, and its officers (including its City Attorneys) and employees, from liabilities, damages, losses, and costs, including, but

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not limited to, reasonable attorney's fees, to the extent caused by Consultant's breach and caused by other persons employed by the Consultant in the performance of the Agreement and any Task Order.

The indemnity provisions set forth in Paragraphs 34.1 and 34.2 shall be considered separate and independent indemnity provisions and shall survive termination of this Agreement.

35.3. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Consultant expresses its willingness to enter into this Agreement with the knowledge that the Consultant's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of the sum of any Agreement amount that is owed by the City for services actually performed by the Consultant to the City's complete satisfaction, and in no case shall exceed the amount provided in article 32.1 herein. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28 Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28 Florida Statutes; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest.

36. CONSULTANT'S PERSONNEL ONSITE –

36.1. If the Services of Consultant are required for any specific construction site, the presence or duties of Consultant's personnel at the construction site, whether as onsite representatives or otherwise, do not make Consultant or Consultant's personnel in any way responsible for those duties that belong to City and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the applicable construction contract documents and any health or safety precautions required by such construction work. Consultant and Consultant's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except Consultant's own personnel.

36.2. The presence of Consultant's personnel at a construction site is for the purpose of providing to City a greater degree of confidence that the completed work will conform generally to the applicable contract documents and that the integrity of the design concept as reflected in the contract documents has been implemented and preserved by the construction contractor(s). Consultant neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the contract documents. For this Agreement only, construction sites include places of

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manufacture for materials incorporated into the construction work, and construction contractors include manufacturers of materials incorporated into the construction work.

37. RECORD DRAWINGS -

- 37.1. Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the project was finally constructed. Consultant is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

38. ADDITIONAL ASSURANCES –

- 38.1. The Consultant for itself and its Subconsultants, if any, certifies that:
- a. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any consulting activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;
 - b. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the City; and;
 - c. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has willfully offered an employee or officer of the City any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.
 - d. The undersigned is authorized to execute this Agreement on behalf of the Consultant and said signature shall bind the Consultant to this Agreement. No further action is required by the Consultant to enter into this Agreement other than Consultant's undersigned representative execution of the Agreement.

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

39. **FEDERALLY FUNDED PROJECTS (As Applicable)** – For Work that will be funded in whole or in part by federal funds, the following provisions shall apply, as required by Section 200.326, Code of Federal Regulations:

a. *Equal Employment Opportunity.* During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

CITY OF COCOA
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(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

b. *Compliance with the Davis-Bacon Act*

(1) The Contractor will comply with the David-Bacon Act (40 U.S.C. 3141 – 3144 and 3146 – 3148) as supplemented by the Department of Labor Regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), which are incorporated herein by reference.

(2) In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. The Contractor shall pay wages not less than once a week.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

CITY OF COCOA
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(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

c. *Compliance with the Copeland "Anti-Kickback" Act*

(1) The Contractor will comply with the Copeland "Anti-Kickback" Act (40 U.S.C 3145) as supplemented by the Department of Labor Regulations (29 CFR Part 3, "Contractors or Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which are incorporated herein by reference.

(2) The Contractor and each subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

d. *Compliance with the Contract Work Hours and Safety Standards Act*

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the

CITY OF COCOA
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(Contract No. 20-20-Empire Computing & Consulting)

standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

e. *Rights to Inventions Made Under a Contract or Agreement.*

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the City or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the City or Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the federal awarding agency.

f. *Clean Air Act*

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

g. *Federal Water Pollution Control Act*

CITY OF COCOA
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(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

h. *Suspension and Debarment*

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida, and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

i. *Byrd Anti-Lobbying Amendment*

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

CITY OF COCOA
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(Contract No. 20-20-Empire Computing & Consulting)

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements *(If applicable)*

(To be submitted with each bid or offer exceeding \$100,000)

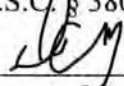
The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The Contractor, Empire Computing & Consulting Inc. certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

David Campos / President

Name and Title of Contractor's Authorized Official

January 29, 2021

Date

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
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j. *Procurement of Recovered Materials*

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

k. *Access to Records*

The following access to records requirements applies to this contract:

(1) The Contractor agrees to provide the City, the State of Florida, the federal awarding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the federal awarding agency Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

l. *Compliance with Federal Law, Regulations, and Executive Orders*

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply will all applicable federal law, regulations, executive orders, federal awarding agency policies, procedures, and directives.

m. *No Obligation by Federal Government*

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

n. *Program Fraud and False or Fraudulent Statements or Related Acts*

CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
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The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

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CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal on the date first above written.

CITY OF COCOA

By: [Signature]
Stockton Whitten, City Manager

Date: 3/09/2021



ATTEST:
[Signature]
Carrie Shealy, City Clerk

CONTRACTOR

Empire Computing & Consulting Inc.

By: [Signature]
David Campos, Jr. President/CEO
Print name/title: David Campos / President

Date: 1/29/2021

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this 16th day of February, 2021, by David Campos Jr., the _____ of _____, who is personally known to me or who produced FL C512-161-65-370-0 as identification and who did take an oath.



PAMELA J. GREENHAW
Notary Public - State of Florida
Commission # HH 064078
My Comm. Expires Feb 11, 2025
Bonded through National Notary Assn.

[Signature]
(Notary Public Signature)
Pamela J. Greenhaw
(Print Name)

Notary Public, State of FL
Commission No.: #HH 064078
My Commission Expires: 02.11.2025

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part I - Information Technology Services Cost Schedule

Please provide a maximum hourly rate for each category of services your organization has been qualified to provide.

Category of Service	Mon-Fri 7 AM - 6 PM Maximum Hourly Rate	After-Hours & Holiday Maximum Hourly Rate
Network Architecture and Security	\$110.00	\$ 225.00
Wireless Network Support	\$110.00*	\$225.00

Pricing reflected on cost sheet is for single purchase items. Items in quantity or over dollar thresholds can be considered for manufacturer special pricing and additional discounting. Empire is an HPE Aruba Gold partner and a NASPO State of Florida participant. Empire also participates on NASPO with Cisco.

Empire can also offer purchasing opportunities through PEPPM, GSA and NCPA should the City so find necessary.

*the wireless network support above does not include the point to point wireless which is covered under a separate contract.

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part II - Information Technology Equipment Cost Schedule

Please provide a minimum percentage discount for each category (in blue fields) or each item (in white fields). You may optionally exclude quoting a discount for any category or item by entering "No Bid".

Category	Minimum % Discount off	Category	Minimum % Discount off
1 - Network Equipment	%	6 - Memory	%
Ruckus	44%	Corsair	%
Cisco	35%	Crucial	%
Transition Networks	10%	Kingston	%
2 - Server Equipment	%	HP	%
HP	25%	7 - Desktop Computers	%
Cisco	35%	Dell	%
3 - Storage	%	HP	%
Barracuda	15%	Lenovo	%
Dell/EMC	%	8 - Laptop Computers	%
Fujitsu	%	Apple	%
HP	35%	Asus	%
Nimble	35%	Dell	%
4 - Wireless Networking	%	HP	%
Ruckus	35%	Lenovo	%
Cisco	35%	Panasonic	15%
Radwin	20%	9 - Tablet Computers	%
5 - Network/Data Center	%	Apple	%
APC/Schneider	%	Asus	%
Avocent	30%	Panasonic	15%
Belkin	%	10 - Thin/Zero Clients	%
Berk-Tek	%	Dell/Wyse	%
Dymo	%	11 - Monitors/Televisions/Projectors	%
Eaton	%	Dell	%
Emcor	%	LG	%
Leviton	%	Samsung	%
Middle Atlantic	%	Sony	%
NetScout/Fluke	%	Viewsonic	%
Siemens	%	Vizio	%
Snake Tray	%	12 - Audio/Visual Equipment	%
Softing	%	13 - Telecom/VoIP	%
Startech	%	Jabra	%
TrippA1:A34 Lite	%	Mitel/Shoretel	%
		Plantronics	%
		Sennheiser	%

E-Verify Affidavit Instructions

Beginning January 1, 2021, pursuant to Section 448.095 Florida Statutes, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-verify system.

1. Please create an Affidavit on your company's letter head in a similar form to that attached below.
2. Have it signed and notarized.
3. Then attach the notarized affidavit and the proof of registration where indicated.

ATTACH NOTARIZED AFFIDAVIT HERE



ATTACH PROOF OF REGISTRATION HERE

CONTRACTOR E-VERIFY AFFIDAVIT

I hereby certify that _____ *[insert contractor company name]* does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of _____ *[insert contractor company name]* proof of registration in the E-Verify system is attached to this Affidavit.

Print Name: _____
Title: _____
Date: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__ by _____ *[name of officer or agent, title of officer or agent]* of _____ *[name of contractor company acknowledging]*, a _____ *[state or place of incorporation]* corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ *[type of identification]* as identification.

[Notary Seal]

Notary Public

Name typed, printed or stamped

My Commission Expires: _____



My Company Account

My Company Profile

Company Information

Company Name

Empire Computing and Consulting Inc

Doing Business As (DBA) Name

Empire Computing and Consulting Inc

Company ID

452064

Enrollment Date

Sep 29, 2011

Employer Identification Number (EIN)

593284389

Unique Entity Identifier (UEI)

DUNS Number

948122288

Total Number of Employees

5 to 9

NAICS Code

517

Sector

Information

Subsector

Telecommunications

[Edit Company Information](#)

Employer Category

Employer Category

None of these categories apply

[Edit Employer Category](#)

Company Addresses

Physical Address

120 N frederick Ave
Daytona Beach, FL 32114

Mailing Address

120 N frederick Ave
Daytona Beach, FL 32114

[Edit Company Addresses](#)

Hiring Sites

We have implemented a new policy and require more information for existing and future hiring sites.

Number of Sites

1

[Edit Hiring Sites](#)

Company Access and MOU

My Company is Configured to:

Verify Its Own Employees

Memorandum of Understanding

[View Current MOU](#)

[U.S. Department of Homeland Security](#) [U.S. Citizenship and Immigration Services](#)

[Accessibility](#) [Plug-ins](#) [Site Map](#)



Select Attach to add document(s)

NEXT

All employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system.

A true and correct copy of Empire Computing & Consulting [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

120 N. Frederick Avenue
Daytona Beach, FL 32114

[Signature]

Print Name: DAVID A CAMPOS JR

Title: CEO

Date: 8-10-23

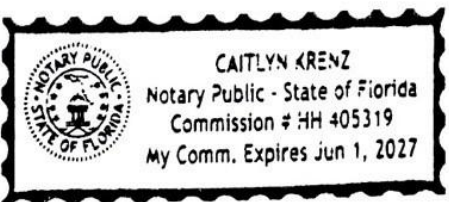
STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 14th day of August, 2023 by David A. Campos [name of officer or agent, title of officer or agent] of Empire Computing & Consulting [name of contractor company acknowledging], a Florida [state or place of incorporation] corporation, on behalf of the corporation. He/she is personally known to me or has produced FL DL [type of identification] as identification.

[Notary Seal]

[Signature]
Notary Public

Caityln Krenz
Name typed, printed or stamped



My Commission Expires: June 1st, 2027

RESOLUTION 2024-112
PIGGYBACKING THE CITY OF COCOA, FLORIDA CONTRACT WITH
EMPIRE COMPUTING FOR INFORMATION TECHNOLOGY EQUIPMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING PIGGYBACKING THE CITY OF COCOA, FLORIDA CONTRACT WITH EMPIRE COMPUTING FOR THE PURCHASE OF INFORMATION TECHNOLOGY EQUIPMENT, COMMUNICATIONS SERVICES, SUPPLIES, LICENSES, HARDWARE, SOFTWARE, MAINTENANCE AND CONSULTANT SERVICES; AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Palm Coast's budget includes Information Technology equipment, communications services, supplies, licenses, hardware, software, maintenance and consultant services to keep the City and staff efficiently functioning; and

WHEREAS, Empire Computing & Consulting desires to provide the above referenced supplies and services to the City of Palm Coast; and

WHEREAS, the City Council of the City of Palm Coast desires to approve piggybacking the City of Cocoa, Florida contract with Empire Computing & Consulting for consulting and miscellaneous technology hardware and software.

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

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

SECTION 2. APPROVAL OF PIGGYBACK. The City Council of the City of Palm Coast hereby approves piggybacking the City of Cocoa, Florida contract with Empire Computing & Consulting for Information Technology equipment, communications services, supplies, licenses, hardware, software, maintenance and consulting services, as attached hereto and incorporated herein by reference as Exhibit "A."

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

SECTION 4. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 5. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.


SECTION 6. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 6th day of August 2024.

ATTEST:

CITY OF PALM COAST


KALEY COOK, CITY CLERK


DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY


MARCUS DUFFY, CITY ATTORNEY



Attachment: Exhibit "A" – Contract with City of Cocoa, Florida



CITY OF COCOA
IT PROFESSIONAL CONSULTANT AGREEMENT
(Contract No. 20-20-Empire Computing & Consulting)

This Agreement made and entered into on the ____ day of _____, **2021** by and **Empire Computing & Consulting Inc.**, authorized and duly licensed to do business in the State of Florida, hereinafter called the CONTRACTOR, with an address of **120 N. Frederick Ave., Daytona, FL 32114** and the City of Cocoa, a municipal corporation organized and existing under the Laws of the State of Florida, and located in Brevard County, Florida, hereinafter called the CITY or OWNER, with an address of 65 Stone Street, Cocoa, Florida 32922.

WITNESSETH

WHEREAS, City has a need to obtain non-engineering related consulting services regarding Information Technology ("IT"), specifically the disciplines of Application/Database Development & Support, Audio/Visual Support, and Physical Security from time to time on an as-needed, task oriented basis; and

WHEREAS, this is not an engineering or construction services agreement governed by the Florida's Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes; and

WHEREAS, CONTRACTOR is willing to provide such services to the City under the terms and conditions stated herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

Witnessed that the CONTRACTOR and the City, for the Consideration herein-after named, agree as follows:

1. **TERM AND DEFINITIONS** –

- 1.1. Unless sooner terminated by either Party pursuant to the terms and conditions herein, this Agreement shall terminate on the fifth (5th) anniversary of the Effective Date. The Parties shall have the option to extend the term of this Agreement by mutual agreement for up to two (2) additional one-year renewals. Such an extension shall only be by written amendment and approved by the City Manager.
- 1.2. The terms and conditions of any Task Order, as described in Section 2 hereof, shall be as set forth in such Task Order. Any Task in effect at the termination of this Agreement shall remain in effect until completion of said Task Order, and all of the terms and conditions of this Agreement shall survive until completion of all Task Orders.
- 1.3. **Definitions.** The following words and phrases used in this Agreement shall have the following meaning ascribed to them unless the context clearly indicates otherwise:

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- a. "Agreement" or "Contract" shall be used interchangeably and shall refer to this Agreement, as amended from time to time, which shall constitute authorization for the Consultant to provide the Consulting services approved by Task Order by the City and is also sometimes referred to herein to include all Task Orders approved hereunder.
- b. "Effective Date" shall be the date on which the last signatory hereto shall execute this Agreement, and it shall be the date on which this Agreement shall go into effect. The Agreement shall not go into effect until said date.
- c. "Consultant" shall mean Empire Computing & Consulting Inc., a S-Corporation, and its principals, employees, resident project representatives (and assistants).
- d. "Public Record" shall have the meaning given in Section 119.011(1), Florida Statutes.
- e. "Reimbursable Expenses" shall mean the actual expenses incurred by Consultant or Consultant's independent professional associates and consultants which are directly related to travel and subsistence at the rates, and under the requirements of, Section 112.061, Florida Statutes, or any other actual and direct expenses the City agrees to reimburse by Task Order.
- f. "Work" or "Services" shall be used interchangeably and shall include the performance of the IT consulting work agreed to by the parties in a Task Order.
- g. "Task Order" shall mean a written document approved by the parties pursuant to the procedure outlined in paragraph 2 of this Agreement, and any amendments thereto approved pursuant to the procedures outlined in paragraph 2 herein, which sets forth the Work to be performed by Consultant under this Agreement, and shall include, without the necessity of a cross-reference, the terms and conditions of this Agreement.

1.4. **Engagement.** The City hereby engages the Consultant and Consultant agrees to perform the Services outlined in this agreement for the stated fee arrangement. No prior or present representations shall be binding upon any of the parties hereto unless incorporated in this Agreement.

2. **DESCRIPTION OF SERVICES; RATE SCHEDULE** - CONTRACTOR shall perform on an as needed basis Information Technology consulting services on a "task" basis. In general, such services may include, but not be limited to, Application/Database Development & Support, Audio/Visual Support, and Physical Security.

2.1. The services to be performed pursuant to each Task Order shall fall within the general Scope of Work. When the City desires to enter into a specific Task Order, the City will communicate with Consultant, verbally or in writing, a general description of the task to be performed. The CONTRACTOR will generate a detailed Scope of Work document, prepare a Schedule, add a

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fee component (e.g. straight hourly rate for work performed, a not to exceed fee amount, or a lump sum fee amount) with a detailed cost breakdown to accomplish the task, and send the thus developed "Task Proposal" to the City. The detailed cost breakdown of the fee shall consist of a list of major sub-tasks and a man-hour breakdown for all work to be performed. The cost breakdown shall include all subconsultant work and the Task Proposal shall include the written price proposals from all subconsultants. The detailed cost breakdown shall include a line item for Reimbursable Expenses and the list of the expenses proposed to be eligible for reimbursement. The City will review the Task Proposal, and if the description is mutually acceptable, the parties will enter into a written "Task Order". The Scope of Services generally to be provided by the CONTRACTOR through a Task Order may include any consulting services for any City project and may contain written terms and conditions which are deemed supplemental to this Agreement.

- 2.2. The City will issue a notice to proceed to the CONTRACTOR in the form of a letter and an executed City purchase order. Upon receipt of the signed Task Order and the written notice to proceed from the City, the CONTRACTOR shall perform the services set forth in the Task Order.
3. The City reserves the right, at its discretion, to perform a service related to this Agreement or to retain the services of other consulting companies to provide professional IT Consultant Services.
4. The CONTRACTOR shall not provide a minimum and maximum hourly rates table as reference to the City and will be herein to set forth as an exhibit to this Agreement.
5. **CHANGES IN SCOPE OF WORK** –
 - 5.1. City may make changes in the Services at any time by giving written notice to CONTRACTOR. If such changes increase (additional services) or decrease or eliminate any amount of Work, City and CONTRACTOR will negotiate any change in total cost or schedule modifications. If the City and the Consultant approve any change, the Task Order will be modified in writing to reflect the changes; and Consultant shall be compensated for said services in accordance with the terms of herein. All change orders shall be authorized in writing by City's and Consultant's designated representative.
 - 5.2. All of the City's said Task Orders and amendments thereto shall be performed in strict accordance with the terms of this Agreement insofar as they are applicable.
6. **SCHEDULE** –
 - 6.1. Consultant shall perform services in conformance with the mutually agreed schedule set for in negotiated Task Orders issued. Consultant shall complete all of said services in a timely manner and will keep the City apprised of the status of work on at least a monthly basis or as otherwise reasonably requested by the City. Should the Consultant fall behind on any agreed

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upon schedule, it shall employ such resources so as to comply with the schedule both parties mutually agreed upon.

- 6.2. No extension for completion of services shall be granted to Consultant without the City's prior written consent, except as provided herein.
- 6.3. Any cost caused by defective or ill-timed services shall be borne by the party responsible thereof.

7. METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF CONSULTANT –

- 7.1. **General Services.** For basic and additional Services performed by the Consultant's principals, employees, and resident project representatives (and assistants) pursuant to paragraphs 1.1 and 1.2, the City agrees to pay the Consultant an amount equal to that agreed upon by the parties for a particular Task Order. However, payment terms must be consistent with the terms and conditions in this Agreement. To the extent that the payment terms in any Task Order conflict with the payment terms set forth in this Agreement, the conflicting provisions of this Agreement shall prevail.
- 7.2. **Additional Services Performed by Professional Associates and Consultants.** For additional Services and Reimbursable Expenses of independent professional associates and consultants employed by Consultant to render additional Services pursuant to paragraphs 1.1 and 1.2, the City agrees to pay the Consultant an amount equal to that billed Consultant by the independent professional associates and consultants. Prior to payment by the City, the Consultant shall submit to the City a copy of any written invoice received by Consultant from all independent professional associates and consultants which clearly evidences the amount billed by the independent professional associates and consultants for additional Services and any Reimbursable Expenses.
- 7.3. **Witness Services.** For witness or expert services rendered by Consultant's principals, employees, resident project representatives (and assistants), and independent professional associates and consultants on behalf of the City in any litigation, arbitration, or other legal or interested administrative proceeding in which the City is a named interested party, City agrees to pay the Consultant or independent professional associate or consultant, which is used as a witness or expert, an amount equal to that agreed upon by the party for a particular Task Order. All witness or expert witness services shall be subject to the direction of the City Attorney and must be coordinated and approved by the City Attorney in advance. When performing such services for the City, Consultant shall be bound by any attorney-work product public records exemption laws and rules.
- 7.4. **Florida Prompt Payment Act.** Payment shall be due and payable as provided by the Florida Local Government Prompt Payment Act s218.70 et. Seq., Florida Statutes.

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- 7.5. **Miscellaneous.** Under no circumstances shall actual or direct costs under this Agreement include costs associated with in efficiency, offsite or home office overhead, loss of productivity, consequential damages, legal or consulting costs, or costs associated with delays caused in whole or in part by the Consultant.
- 7.6. **Errors and Deficiencies.** Consultant shall not invoice the City or seek any compensation from the City to correct or revise any errors or deficiencies in Consultant's services provided under this Agreement.
- 7.7. **Payment Offsets.** To the extent that Consultant owes the City any money under this or any other Agreement with the City, the City shall have the right to withhold payment and otherwise back charge the Consultant for any money owed to the City by Consultant.
- 7.8. **Payment not Waiver.** The City's payment of any invoice under this Agreement shall not be construed or operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement and Consultant shall remain liable to the City in accordance with applicable law for all damages to the City caused by Consultant's performance of any services provided under this Agreement.
- 7.9. **Delay Remedy.** The risk of any monetary damages caused by any delays in performing the Services under this Agreement and any Task Order are accepted and assumed entirely by the Consultant, and in no event shall any claim relating thereto for an increase in compensation be made or recognized. Consultant shall not make any claim nor seek any damages of any kind against the City for any delays, impacts, disruption, or interruption caused by any delay. Consultant's remedy for a delay shall be an equitable extension of time to perform the Services for each day of such delay that impacts the critical path of the schedule established under this Agreement or specific Task Order.
- 7.10. **Acceptance of Payment.** Acceptance of final payment by the Consultant for a specific Task Order shall constitute a release of all claims for payment which the Consultant may have against the City for that Task Order unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.
- 7.11. **Payment Adjustments.** It is agreed that payment by the City of any billing will not constitute agreement as to the appropriateness of any item and that at the time of any final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the Consultant, the Consultant agrees to refund such overpayment to the City within ninety (90) days of notice of any such overpayment. Such refund shall not constitute a waiver by the Consultant for any claims relating to the validity of a finding by the City of overpayment.

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7.12. **Partial Payments.** Payment made to the Consultant shall not constitute acceptance of the work or any portion thereof which is not in accordance with this Agreement. The City retains the right to pay only that percentage of the total contract amount that equals the same percentage that work completed bears to the total amount of work required to be performed under this Agreement. If the City objects to all or any portion of any invoice, it shall notify the Consultant of the same within five (5) days from the date of receipt and shall pay that portion of the invoice not in dispute. The parties shall immediately make every effort to settle the disputed portion.

8. **RIGHT TO INSPECTION** –

8.1. City or its affiliates shall at all times have the right to review or observe the Services performed by Consultant.

8.2. No inspection, review, or observation shall relieve Consultant of its responsibility under this Agreement.

9. **PROGRESS MEETING** –

9.1. City's designated Project Manager may hold periodic progress meetings on a monthly basis, or more frequently if required by the City, during the term of any Task Order entered into under this Agreement. Consultant's Project Manager and all other appropriate personnel shall attend such meetings as designated by City's Project Manager.

10. **SAFETY** –

10.1. Consultant shall be solely and absolutely responsible and assume all liability for the safety and supervision of its principals, employees, resident project representatives (and assistants) while performing Services provided hereunder.

11. **REASONABLE ACCESS** –

11.1. During the term of this Agreement, City shall grant Consultant reasonable access to the City's premises, records, and files for purposes of fulfilling its obligations under this Agreement.

12. **INSURANCE** –

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

- a. **Professional Liability.** Proof of professional liability insurance shall be provided to the City for the minimum amount of \$1,000,000 as the combined single limit per claim and \$1,000,000 in the aggregate.

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- b. The Consultant shall maintain comprehensive general liability insurance in the minimum amount of \$1,000,000 as the combined single limit for each occurrence to protect the Consultant from claims of property damages and personal injury which may arise from any Services performed under this Agreement whether such Services are performed by the Consultant or by anyone directly employed by or contracting with the Consultant, and with a deductible not greater than \$5,000.00.
 - c. The Consultant shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$50,000 property damage as the combined single limit for each occurrence to protect the Consultant from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant.
 - d. The Consultant shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement.
- 12.2. **Special Requirements.** Current, valid insurance policies meeting the requirements herein identified shall be maintained during the term of this Agreement. Renewal certificates shall be sent to the City thirty (30) days prior to any expiration date. There shall also be a thirty (30) day advance written notification to the City in the event of cancellation or modification of any stipulated insurance coverage. The City shall be an additional named insured on stipulated insurance policies included in article 10.1.b and 10.1.c herein, as its interest may appear, from time to time.
- 12.3. The insurance required by this Agreement shall include the liability and coverage provided herein, or as required by law, whichever requirements afford greater coverage. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty (30) days' prior written notice has been given to the City, and the Consultant by certified mail, return receipt requested. All such insurance shall remain in effect until final payment. In the event that the Consultant shall fail to comply with the foregoing requirement, the City is authorized, but in no event shall be obligated, to purchase such insurance, and the City may bill the Consultant. The Consultant shall immediately forward funds to the City in full payment for said insurance. It is expressly agreed that neither the provision of the insurance referred to in this Agreement nor the City's acceptance of the terms, conditions or amounts of any insurance policy shall be deemed a warranty or representation as to adequacy of such coverage. All insurance coverage shall be with insurer(s) rated as A+ by Best's Rating Guide (or equivalent rating and rating service as reasonably determined by the City Manager) and licensed by the State of Florida to engage in the business of writing of insurance or provided through the London Market for Professional Liability Insurance. Unless agreed to by the City to the contrary, the City shall be named on the insurance policies included

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in article 10.1.b and 10.1.c as "additional insured." The Consultant shall cause its insurance carriers, prior to the effective date of this agreement to furnish insurance certificates specifying the types and amounts of coverage in effect pursuant hereto, the expiration dates of such policies, and a statement that no insurance under such policies will be canceled without thirty (30) days' prior written notice to the City in compliance with other provisions of this Agreement. Further copies of all relevant policies will be provided to the City within thirty (30) days of the effective date of this agreement. If the City has any objection to the coverage afforded by or other provision of the insurance required to be purchased and maintained by the Consultant in accordance with this Article on the basis of its not complying with the Agreement, the City shall notify the Consultant in writing thereof within thirty (30) days of the date of delivery of such certificates to the City. For all Work performed pursuant to this Agreement, the Consultant shall continuously maintain such insurance in the amounts, type, and quality as required by the Agreement.

- 12.4. **Independent Associates and Consultants.** All independent associates and consultants employed by Consultant to perform any Services hereunder shall fully comply with the insurance provisions contained in this paragraph.

13. **COMPLIANCE WITH LAWS AND REGULATIONS** –

- 13.1. Consultant shall comply with all requirements of federal, state, and local laws, rules, regulations, standards, and/or ordinances applicable to the performance of Services under this Agreement.

14. **REPRESENTATIONS** –

- 14.1. Consultant represents that the Services provided hereunder shall conform to all requirements of this Agreement and any Task Order, shall be consistent with recognized and sound Consulting practices and procedures; and shall conform to the customary standards of care, skill, and diligence appropriate to the nature of the Services rendered. Consultant shall perform as expeditiously as is consistent with professional skill and care and the orderly progress of the Services performed hereunder. Consultant's services shall be consistent with the time periods established under this Agreement or the applicable Task Order. Consultant shall provide City with a written schedule for services performed under each Task Order and such schedule shall provide for ample time for the City to reviews, for the performance of consultants (if any), and for the approval of submissions by authorities having jurisdiction over the services. The Consultant's designated representative shall have the authority to act on Consultant's behalf with respect to the Services. In addition, Consultant's representative shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services. Except with the City's knowledge and consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Consultant's professional judgment with respect to the Services. The Consultant shall review laws, codes, and regulations applicable to Consultant's Services. The Consultant's services and design shall comply with all applicable

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requirements imposed by all public authorities. The Consultant represents and warrants that it is familiar with and accepts that it will perform the Services hereunder in a manner that complies with all applicable requirements of law, codes, and regulations. Consultant shall be responsible for the professional quality, technical accuracy and the coordination of all plans, studies, reports and other services furnished to the City under this Agreement. Unless this Agreement is terminated by the City, or terminated by Consultant for nonpayment of any proper invoices, or the City exercises its rights to perform the Services pursuant to under Paragraph 2.2 herein, Consultant shall be responsible for the satisfactory and complete execution of the Services described in this Agreement and any Task Order. The Consultant represents that it will carefully examine the scope of services required by the City in and Task Order, that it will investigate the essential requirements of the services required by the Task Order, and that it will have sufficient personnel, equipment, and material at its disposal to complete the services set forth in the Task Order in a good professional and workmanlike manner in conformance with the requirements of this Agreement.

- 14.2. Consultant represents that all principals, employees, and other personnel furnishing such Services shall be qualified and competent to perform the Services assigned to them and that such guidance given by and the recommendations and performance of such personnel shall reflect their best professional knowledge and judgment.

15. GUARANTEE AGAINST INFRINGEMENT –

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

16. DOCUMENTS –

- 16.1. **Public Records.** Pursuant to Section 119.0701, Florida Statutes and other applicable public records laws, Consultant agrees that any records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form, characteristics, or means of transmission, of Consultant related, directly or indirectly, to the services provided to the City under this Agreement and made or received pursuant to law or ordinance or in connection with the transaction of official business by the City, may be deemed to be a public record, whether in the possession or control of the City or the Consultant. Said records, documents, transactions, writings, papers, letters, computerized information and programs, maps, books, audio or video tapes, films, photographs, data processing software, writings or other material(s), regardless of the physical form,

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characteristics, or means of transmission of Consultant are subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City's designated custodian of public records.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, THE CITY CLERK, AT (321) 433-8484, cshealy@cocoafl.org, City Clerk's Office, 65 Stone Street, Cocoa, FL 32922.

Consultant is required to and agrees to comply with public records laws. Consultant shall keep and maintain all public records required by the City to perform the services as agreed to herein. Consultant shall provide the City, upon request from the City Clerk, copies of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by law. Consultant shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term. Upon completion of the Agreement, Consultant shall transfer to the City, at no cost, all public records in possession of the Consultant, provided the transfer is requested in writing by the City Clerk. Upon such transfer, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. However, if the City Clerk does not request that the public records be transferred, the Consultant shall continue to keep and maintain the public records upon completion of the Agreement and shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City. Should the City not possess public records relating to this Agreement which are requested to be inspected or copied by the City or any other person, the City shall immediately notify Consultant of the request and the Consultant shall then provide such records to the City or allow the records to be inspected or copied within a reasonable time. If the Consultant does not comply with a public records request, the City may enforce this Section to the extent permitted by law. Consultant acknowledges that if the Consultant does not provide the public records to the City within a reasonable time, the Consultant may be subject to penalties under Section 119.10, Florida Statutes. The Consultant acknowledges that if a civil action is filed against the Consultant to compel production of public records relating to this Agreement, the court may assess and award against Consultant the reasonable costs of enforcement, including reasonable attorney fees. All public records in connection with this Agreement shall, at any and all reasonable times during the normal business hours of the Consultant, be open and freely exhibited to the City for the purpose of examination, audit, or otherwise. Failure by Consultant to grant such public access and comply with public records laws and/or requests shall be grounds for immediate unilateral cancellation of this Agreement by the City upon delivery of a written notice of cancellation. If the Consultant fails to comply with this Section, and the City must enforce this Section, or the City suffers a third party award of attorney's fees and/or damages for violating Chapter 119, Florida Statutes, due to Consultant's failure to comply with this Section, the City shall collect from Consultant

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prevailing party attorney's fees and costs, and any damages incurred by the City, for enforcing this Section against Consultant. And, if applicable, the City shall also be entitled to reimbursement of all attorneys' fees and damages which the City had to pay a third party because of the Consultant's failure to comply with this Section. The terms and conditions set forth in this Section shall survive the termination of this Agreement.

- a. **Reuse of Documents.** All documents, including but not limited to, drawings, specifications, and data, or programs stored electronically or otherwise, prepared by the Consultant and its independent contractors and associates pursuant to this Agreement or related exclusively to the Services described herein shall be owned by the City and may be reused by the City for any reason or purpose at any time. However, the City agrees that the aforesaid documents are not intended or represented to be suitable for reuse by the City or others on any undertaking other than the Work outlined in this Agreement. Any reuse for an undertaking other than for the Work without verification or adaptation by the Consultant, or its independent contractors and associates if necessary, to specific purposes intended will be at the City's sole risk and without liability or legal exposure to the Consultant.
- b. **Ownership of Documents.** The City and the Consultant agree that upon payment of fees due to the Consultant by the City for a particular design, report, inventory list, compilation, drawing, specification, model, recommendation, schedule or otherwise, said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Consultant in the performance of this Agreement, or any Work hereunder, shall be the sole property of the City, and the City is vested with all rights therein. The Consultant waives all rights of copyright in said design, report, inventory list, compilation, drawing, specification, technical data, recommendation, model, schedule and other instrument produced by the Consultant in the performance of this Agreement, and hereby assigns and conveys the same to the City whether in the possession or control of the Consultant or not.
- c. **Preexisting Ownership Rights to Documents.** Notwithstanding any provisions to the contrary contained in this Agreement, Consultant shall retain sole ownership to its preexisting information not produced and paid for by the City under this Agreement including, but not limited to computer programs, software, standard details, figures, templates and specifications

17. **ASSIGNMENT** –

- 17.1. Consultant shall not assign or subcontract this Agreement, any Task Order hereunder, or any rights or any monies due or to become due hereunder without the prior, written consent of City.
- 17.2. If upon receiving written approval from City, any part of this Agreement is subcontracted by Consultant, Consultant shall be fully responsible to City for all acts and/or omissions performed by the subcontractor as if no subcontract had been made.

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- 17.3. If City determines that any subcontractor is not performing in accordance with this Agreement, City shall so notify Consultant who shall take immediate steps to remedy the situation.
- 17.4. If any part of this Agreement is subcontracted by Consultant, prior to the commencement of any Work by the subcontractor, Consultant shall require the subcontractor to provide City and its affiliates with insurance coverage as set forth by the City.

18. INDEPENDENT CONTRACTOR –

- 18.1. At all times during the term of this Agreement, Consultant shall be considered an independent contractor and not an employee of the City.
- 18.2. Consultant defaults in the performance of any material covenant or condition of this Agreement and does not cure such other default within thirty (30) calendar days after written notice from the City specifying the default complained of, unless, however, the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied within thirty (30) calendar days, in which case the Consultant shall have such time as is reasonably necessary to remedy the default, provided the Consultant promptly takes and diligently pursues such actions as are necessary therefor, or
- 18.3. Consultant is adjudicated bankrupt or makes any assignment for the benefit of creditors or Consultant becomes insolvent, or is unable or unwilling to pay its debts; or
- 18.4. Consultant has acted grossly negligent, as defined by general and applicable law, in performing the Services hereunder; or
- 18.5. Consultant has committed any act of fraud or any other unlawful act upon the City or another party; or
- 18.6. Consultant has made a material misrepresentation of fact to the City while performing its obligations under this Agreement.
- 18.7. Consultant has assigned this Agreement or any Task Order without the City's prior written consent.
- 18.8. Notwithstanding the aforementioned, in the event of a default by Consultant, the City shall have the right to exercise any other remedy the City may have by operation of law, without limitation, and without any further demand or notice.
- 18.9. In the event of such termination upon default and breach of this Agreement, any completed services performed by the Consultant under this Agreement shall, at the option of the City, become the City's property and the Consultant shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Consultant, however,

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shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the City, and the City may withhold any payments to the Consultant for the purpose of setoff until such time as the amount of damages due to the City from the Consultant can be determined.

19. TERMINATION –

19.1. Notwithstanding any other provision of this Agreement, City may, upon written notice to Consultant, terminate this Agreement for convenience, without penalty, upon thirty (30) days advance written notice. In the event of such termination, City shall be liable only for the payment of all unpaid charges, determined in accordance with the provisions of this Agreement, for Work properly performed to the satisfaction of the City prior to the effective date of termination.

20. FORCE MAJEURE –

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

21. GOVERNING LAW & VENUE –

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

22. HEADINGS –

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

23. SEVERABILITY –

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

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24. WAIVER AND ELECTION OF REMEDIES –

- 24.1. Waiver by either party of any terms, or provision of this Agreement shall not be considered a waiver of that term, condition, or provision in the future.
- 24.2. No waiver, consent, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party hereto.

25. THIRD PARTY RIGHTS –

- 25.1. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.

26. PROHIBITION AGAINST CONTINGENT FEES –

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

27. ENTIRE AGREEMENT –

- 27.1. This Agreement, including any Task Orders and Schedules, Attachments, Appendix's and Exhibits attached hereto, constitute the entire agreement between City and Consultant with respect to the Services specified and all previous representations relative thereto, either written or oral, are hereby annulled and superseded.

28. NO JOINT VENTURE –

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

29. ATTORNEY'S FEES –

- 29.1. Should any litigation arise concerning this Agreement between the parties, the parties agree to bear their own costs and attorney's fees.

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30. COUNTERPARTS –

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

31. DRAFTING –

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

32. NOTICE –

32.1. Any notices required to be given by the terms of this Agreement shall be delivered by hand or mailed, postage prepaid to:

CONSULTANT

Empire Computing & Consulting Inc.
Attn: Dave Campos / President – CEO
120 N. Frederick Ave
Daytona, FL 32114
P: (386) 253-6506
E: davec@empirecomputing.com

FOR THE CITY

City of Cocoa
Attn: City Manager
65 Stone Street
Cocoa, FL 32922
P: (321) 433-8833
E: purchasing@cocoafl.org

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

32.3. Any Notice given as provided herein shall be deemed received as follows: if delivered by personal service, on the date so delivered; if delivered to an overnight courier service, on the business day immediately following delivery to such service; and if mailed, on the third business day after mailing.

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33. SOVEREIGN IMMUNITY –

33.1. The City intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to the fullest extent possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. Consultant agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgment, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000.00). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

34. CORPORATE REPRESENTATIVE BY CONSULTANT –

- 34.1. Consultant hereby represents and warrants to the City the following:
- a. Consultant is duly registered and licensed to do business in the State of Florida and is in good standing under the laws of Florida and is duly qualified and authorized to carry on the functions and operations set forth in this Agreement.
 - b. The undersigned representative of Consultant has the power, authority, and legal right to execute and deliver this Agreement on behalf of Consultant.

35. INDEMNIFICATION AND LIMITATION OF LIABILITY –

35.1. The Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, costs or suits, including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance or non-performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

35.2. Consultant shall also indemnify and hold harmless the City, and its officers (including its City Attorneys) and employees, from liabilities, damages, losses, and costs, including, but

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not limited to, reasonable attorney's fees, to the extent caused by Consultant's breach and caused by other persons employed by the Consultant in the performance of the Agreement and any Task Order.

The indemnity provisions set forth in Paragraphs 34.1 and 34.2 shall be considered separate and independent indemnity provisions and shall survive termination of this Agreement.

35.3. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Consultant expresses its willingness to enter into this Agreement with the knowledge that the Consultant's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of the sum of any Agreement amount that is owed by the City for services actually performed by the Consultant to the City's complete satisfaction, and in no case shall exceed the amount provided in article 32.1 herein. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28 Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28 Florida Statutes; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest.

36. CONSULTANT'S PERSONNEL ONSITE –

36.1. If the Services of Consultant are required for any specific construction site, the presence or duties of Consultant's personnel at the construction site, whether as onsite representatives or otherwise, do not make Consultant or Consultant's personnel in any way responsible for those duties that belong to City and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the applicable construction contract documents and any health or safety precautions required by such construction work. Consultant and Consultant's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except Consultant's own personnel.

36.2. The presence of Consultant's personnel at a construction site is for the purpose of providing to City a greater degree of confidence that the completed work will conform generally to the applicable contract documents and that the integrity of the design concept as reflected in the contract documents has been implemented and preserved by the construction contractor(s). Consultant neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the contract documents. For this Agreement only, construction sites include places of

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manufacture for materials incorporated into the construction work, and construction contractors include manufacturers of materials incorporated into the construction work.

37. RECORD DRAWINGS -

- 37.1. Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the project was finally constructed. Consultant is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

38. ADDITIONAL ASSURANCES –

- 38.1. The Consultant for itself and its Subconsultants, if any, certifies that:
- a. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any consulting activity by any Federal, State, or local governmental commission, department, corporation, subdivision, or agency;
 - b. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has employed or otherwise provided compensation to, any employee or officer of the City, and;
 - c. No principal (which includes officers, directors, or executive) or individual holding a professional license and performing work under this Agreement, employee, or agent has willfully offered an employee or officer of the City any pecuniary or other benefit with the intent to influence the employee or officer's official action or judgment.
 - d. The undersigned is authorized to execute this Agreement on behalf of the Consultant and said signature shall bind the Consultant to this Agreement. No further action is required by the Consultant to enter into this Agreement other than Consultant's undersigned representative execution of the Agreement.

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39. **FEDERALLY FUNDED PROJECTS (As Applicable)** – For Work that will be funded in whole or in part by federal funds, the following provisions shall apply, as required by Section 200.326, Code of Federal Regulations:

a. *Equal Employment Opportunity.* During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

b. *Compliance with the Davis-Bacon Act*

(1) The Contractor will comply with the David-Bacon Act (40 U.S.C. 3141 – 3144 and 3146 – 3148) as supplemented by the Department of Labor Regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), which are incorporated herein by reference.

(2) In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. The Contractor shall pay wages not less than once a week.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

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(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

c. *Compliance with the Copeland "Anti-Kickback" Act*

(1) The Contractor will comply with the Copeland "Anti-Kickback" Act (40 U.S.C 3145) as supplemented by the Department of Labor Regulations (29 CFR Part 3, "Contractors or Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which are incorporated herein by reference.

(2) The Contractor and each subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

(3) Subcontracts. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance.

(4) The Contractor agrees to report each suspected or reported violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

d. *Compliance with the Contract Work Hours and Safety Standards Act*

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the

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standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

e. Rights to Inventions Made Under a Contract or Agreement.

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the City or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the City or Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the federal awarding agency.

f. Clean Air Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

g. Federal Water Pollution Control Act

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(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, the federal awarding agency, and as otherwise appropriate.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

h. Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida, and the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

i. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

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APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements *(If applicable)*

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. The Contractor, Empire Computing & Consulting Inc. certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

David Campos / President

Name and Title of Contractor's Authorized Official

Date

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j. *Procurement of Recovered Materials*

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

k. *Access to Records*

The following access to records requirements applies to this contract:

(1) The Contractor agrees to provide the City, the State of Florida, the federal awarding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the federal awarding agency Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

l. *Compliance with Federal Law, Regulations, and Executive Orders*

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, federal awarding agency policies, procedures, and directives.

m. *No Obligation by Federal Government*

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

n. *Program Fraud and False or Fraudulent Statements or Related Acts*

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The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

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CITY OF COCOA
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IN WITNESS WHEREOF, the parties have hereunto set their hands and seal on the date first above written.

CITY OF COCOA

By: _____
Stockton Whitten, City Manager

Date: _____

ATTEST:

Carie Shealy, City Clerk

CONTRACTOR

Empire Computing & Consulting Inc.

By: _____
Print name/title: David Campos / President

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this _____ day of _____, 20____, by _____, the _____ of _____, who is personally known to me or who produced _____ as identification and who did take an oath.

(Notary Public Signature)

(Print Name)
Notary Public, State of _____
Commission No.: _____
My Commission Expires: _____



PURCHASING

65 Stone Street • Cocoa, FL 32922

PHONE: (321) 433-8833

EMAIL: purchasing@cocoafl.gov

CITY OF COCOA
1ST AMENDMENT TO PROFESSIONAL CONSULTANT AGREEMENT
CONTRACT P-20-20-COC
PROFESSIONAL IT SERVICES

This FIRST Amendment is made to the agreement between the **City of Cocoa**, a Florida municipal Corporation (“City”) and **Empire Computing & Consulting Inc.** a for profit corporation (“Contractor”).

WHEREAS, the City and the Contractor entered into an agreement for Professional IT Services, dated January 29, 2021.

WHEREAS, the Contractor is offering additional products to the City from what was established in Exhibit A, Part II of the original agreement.

WHEREAS, the parties desire to amend the Agreement to update and accept the additional product offerings in a revised Exhibit A – Pricing Schedule.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The Agreement is hereby amended to update Exhibit A – Pricing Schedule to include the additional product offerings as attached to this amendment by reference.
2. All of the terms and conditions of the Agreement shall remain in full force and effect, except as modified by this Amendment.
3. This Amendment shall be effective as of the date of the final signature below.

By signing below, the parties have executed this Amendment which will be effective as of the date of the final signature.

Stay Connected

www.CocoaFL.gov



Serving our community with P.R.I.D.E!

**EMPIRE COMPUTING &
CONSULTING INC.**

CITY OF COCOA

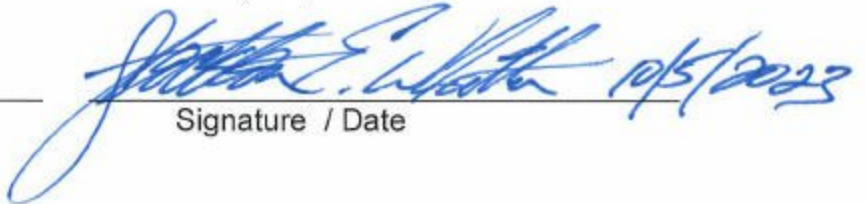
By: David A. Campos Jr
(Print Name)

By: Stockton Whitten
(Print Name)

CEO/President
(Title)

City Manager
(Title)


Signature / Date


Signature / Date

Attest:  for
Carrie Shealy, City Clerk

CC: Robert Beach, Chief Technology Officer, City of Cocoa
Brian Dale, Purchasing / Contracts Division Manager, City of Cocoa

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Serving our community with P.R.I.D.E!

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part I - Information Technology Services Cost Schedule

Please provide a maximum hourly rate for each category of services your organization has been qualified to provide.

Category of Service	Mon-Fri 7 AM - 6 PM Maximum Hourly Rate	After-Hours & Holiday Maximum Hourly Rate
Network Architecture and Security	\$110.00	\$ 225.00
Wireless Network Support	\$110.00*	\$225.00

Pricing reflected on cost sheet is for single purchase items. Items in quantity or over dollar thresholds can be considered for manufacturer special pricing and additional discounting. Empire is an HPE Aruba Gold partner and a NASPO State of Florida participant. Empire also participates on NASPO with Cisco.

Empire can also offer purchasing opportunities through PEPPM, GSA and NCPA should the City so find necessary.

*The wireless network support above does not include the Radwin point to point wireless installation or maintenance which is covered under a separate contract.

**EXHIBIT A – PRICING SCHEDULE
Empire Computing & Consulting**

Part II - Information Technology Equipment Cost Schedule

Please provide a minimum percentage discount for each category (in blue fields) or each item (in white fields). You may optionally exclude quoting a discount for any category or item by entering "No Bid".

Category	Minimum % Discount off	Category	Minimum % Discount off
1 - Network Equipment	%	6 - Memory	%
Ruckus	44%	Corsair	%
Cisco	35%	Crucial	%
Transition Networks	10%	Kingston	%
Fortinet*	18%	HP	%
2 - Server Equipment		7 - Desktop Computers	%
HP	25%	Dell	%
Cisco	35%	HP	%
3 - Storage	%	Lenovo	%
Barracuda	15%	8 - Laptop Computers	%
Dell/EMC	%	Apple	%
Fujitsu	%	Asus	%
HP	35%	Dell	%
Nimble	35%	HP	%
4 - Wireless Networking	%	Lenovo	%
Ruckus	35%	Panasonic	%
Cisco	35%	9 - Tablet Computers	
Radwin	20%	Apple	%
Ubiquiti*	0%	Asus	%
HPE Aruba*	35%	Panasonic	15%
5 - Network/Data Center	%	10 - Thin/Zero Clients	%
APC/Schneider	%	Dell/Wyse	%
Avocent	30%	11 - Monitors/Televisions/Projectors	%
Belkin	%	Dell	%
Berk-Tek	%	LG	%
Dymo	%	Samsung	%
Eaton	%	Sony	%
Emcor	%	Viewsonic	%
Leviton	%	Vizio	%
Middle Atlantic	%	12 - Audio/Visual Equipment	%
NetScout/Fluke	%	Verkada (entire line)*	30%
Siemens	%	13 - Telecom/VoIP	
Snake Tray	%	Jabra	%
Softing	%	Mitel/Shoretel	%
Startech	%		%
TrippA1:A34 Lite	%		%

*Additional offerings included under the first amendment to agreement P-20-20-COC

FORM 8 – AFFIDAVIT OF COMPLIANCE

AFFIDAVIT OF COMPLIANCE WITH ANTI-HUMAN TRAFFICKING LAWS

State of Florida
County of Volusia

*Empire Computing
and Consulting Inc.*

In accordance with section 787.06 (13), Florida Statutes, the undersigned, on behalf of _____ (the "Entity"), hereby attests under penalty of perjury, that the Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking."

The undersigned representative of the Entity is authorized to execute this affidavit on behalf of the Entity.

Date: 4/23/2020

Signed: *[Signature]*

Entity: Empire Computing
and Consulting Inc.

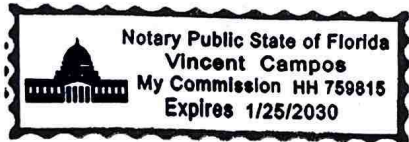
Name: DAVID A CAMPOS JR
Title: President/CEO

Sworn to (or affirmed) and subscribed before me this 23 day of April, 2020, by David Campos

Notary Signature

[Signature]

PRINT, TYPE OR STAMP NAME OF NOTARY



Personally known _____

OR Produced Identification X

Type of Identification Produced FL DL#
CS12-161-65-370-0