



**RFQ-SF-03-0-2020
ADDENDUM NUMBER 1**

**REQUEST FOR QUALIFICATIONS
For
SCOPE OF SERVICES FOR
CONSTRUCTION PHASE ENGINEERING & CONTRACT ADMINISTRATION**

**SHUTTLE LANDING FACILITY (SLF)
BLOCK 1 DEVELOPMENT**

Date: September 9, 2020

To: All Interested Bidders and Other Interested Parties

From: Carrie Bargas – Contracts and Procurement Administrator

Space Florida issues the following Addendum Number 1 and Considers it part of the Request for Qualifications document.

1. Attachment B FORM OF THE CONTRACT:

Remove and replace in its entirety. Revised FORM OF THE CONTRACT includes:

- a.) The Form of The Contract Attachment A – Space Florida Standard Agreement Terms and Conditions, Section 2. Indemnification has been revised.

AGREEMENT NO.: _____
between
SPACE FLORIDA
and

This **Agreement** (“Agreement”) is entered into on _____, 20____, (the “Effective Date”) by **Space Florida**, an independent special district, a body politic and corporate, and a subdivision of the State of Florida, whose principal place of business is 505 Odyssey Way, Suite 300, Exploration Park, FL 32953, and _____ (the “Company”), [a _____ corporation] or [a _____ limited liability company] authorized to do business in Florida with principal place of business at _____.

Whereas, Section 331.302 of the Florida Statutes created Space Florida to foster the growth and development of a sustainable and world-leading aerospace industry in the State of Florida.

Whereas, Space Florida is charged with promoting aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.

Whereas, Section 331.305 of the Florida Statutes authorizes Space Florida to own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, aerospace space business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and other spaceport facilities and other aerospace-related space-related systems, including educational, cultural, and parking facilities and aerospace-related space-related initiatives.

Whereas, Space Florida has entered into that certain Financial Assistance Grant Agreement with the Florida Department of Transportation (“FDOT”) dated September 25, 2018 (including Amendment No. 1 dated April 9, 2019) and November 20, 2018, attached as composite Attachment “D” (“FDOT Funding Agreement(s)”), under which Space Florida will receive funding from FDOT to facilitate the project known as “**Shuttle Landing Facility Utility Corridor Project SF-01-0-2019** including offsite Wetland Mitigation Areas” located at the Cape Canaveral Spaceport, Kennedy Space Center, Florida (the “Project”).

Whereas, Space Florida issued RFQ-SF-_____ “Request for Qualifications for Engineer of Record Construction Phase Engineering and Contract Administration (CA) Services” for the Project (the “RFQ”), soliciting responses from multiple professional consultants to provide services to Space Florida for the Project;

Whereas, Company submitted a response to the RFQ and was selected by Space Florida to provide such CEI services to Space Florida;

NOW, THEREFORE, the parties agree as follows:

1. Engagement, Scope of Services, Schedule and Deliverables.
 - a. Within the scope of this Agreement, the Company shall devote its best efforts and such time, attention and energy to the business of Space Florida as is required, and shall be available, with reasonable notice by Space Florida for meetings, travel, and telephone communications for issues

relating to this Agreement. The Company shall promptly respond to all requests from and guidance provided by the President, or any other employee, of Space Florida designated in this Agreement, or in writing by the Space Florida President.

- b. The Company shall provide and properly perform the Scope of Services and deliverables in accordance with the schedule all of which are described in Attachment B (“Services”).
 - c. The Company represents and warrants that it is properly licensed to perform the Services and has the professional experience and skill to perform the Services required to be performed hereunder; that it shall comply with all applicable federal, state and local laws, rules, ordinances or codes, including all professional licensing and registration (both corporate and individual) for all required basic disciplines; that it shall perform the Services in accordance with the terms hereof, and without such reference constituting a limitation on the Services required under this Agreement in accordance with generally accepted professional standards and in an expeditious and economical manner consistent with the best interests of Space Florida.
 - d. Additional Services. Space Florida may, from time to time, authorize Company in writing to perform services in addition to the Services set forth in Attachment B and, Company shall perform such additional services (“Additional Services”) in connection with and as part of the Services. Any such Additional Services shall be set forth in a written amendment for Additional Professional Services, which shall be made part of this Agreement, executed by both parties and governed by the terms and conditions of this Agreement. Company waives any right for payment and agrees that it will not be paid for any Additional Services unless such Additional Services are approved in advance by Space Florida and a written amendment for same is executed by both parties.
 - e. Reduction in Scope of Services. Space Florida retains the right to reduce the scope of any portion of the Services. In such event, Space Florida shall be entitled to proportionally reduce the sums owed to Company.
2. Period of Performance. This Agreement shall commence on the Effective Date and shall remain in full force and effect through final completion and close out of the Project (the “Expiration Date”) unless terminated, or extended, by mutual written agreement by both parties.
3. Compensation.
- a. All payments to Company shall be in compliance with the FDOT Funding Agreement.
 - b. Space Florida shall pay Company for the Scope of Services performed in the amounts as stated in Attachment C and in accordance with the payment schedule described in Attachment C. Reimbursable expenses shall be reimbursed at cost with no markup in accordance with the amounts as stated in Attachment C.
 - c. Company shall submit a detailed invoice in a form acceptable to Space Florida monthly for all services provided after the Effective Date under this Agreement. Invoices shall identify a summary of accomplishments and activities performed in conjunction with the Scope of Services. All invoices and deliverables shall be submitted electronically, confirmed returned receipt, to Space Florida Accounting, accounting@spaceflorida.gov with a cc: to Space Florida Contracts, contracts@spaceflorida.gov and to the project manager, _____ at _____.
 - d. In determining the amount of payment, Space Florida will exclude all costs incurred by Company (i) prior to the Effective Date of this Agreement, (ii) after the Expiration Date or termination date of this Agreement, or (iii) costs which are outside of the Scope of Services.

- e. Space Florida shall make payment to Company within thirty (30) days of receipt of a proper invoice.
 - f. Any funds paid in excess of the amount to which Company is entitled under the terms of this Agreement must be refunded to Space Florida. The balance of unobligated funds, if any, which has been advanced or paid by Space Florida to Company under this Agreement must be refunded to Space Florida.
 - g. If Company fails to perform the minimum level of service required by this Agreement, Space Florida may exercise any remedies at law or in equity, including, without limitation, the right to assess financial consequences by withholding and/or reducing payment, and terminating this Agreement in accordance with the terms hereof.
 - h. The acceptance by Company, its successors, or assigns, of the final payment due upon the termination or expiration of this Agreement, shall constitute a full and complete release of Space Florida from any and all claims, demands, or causes of action whatsoever that Company, its successors or assigns may have against Space Florida under this Agreement.
4. Availability of Funds. All payments to be made by Space Florida under this Agreement are subject to the availability of appropriated funds by the Legislature of the State of Florida. Space Florida shall immediately notify the Company should funds become unavailable.
5. Termination.
- a. Space Florida may terminate this Agreement without cause upon seven (7) days written notice to the Company.
 - b. Either party may terminate this Agreement for cause after first providing the other party seven (7) days written notice and opportunity to cure should the other party substantially fail to perform in accordance with this Agreement.
 - c. In the event of any termination of this Agreement, Space Florida shall be obligated to pay all approved invoices submitted by the Company for Services satisfactorily completed by the Company prior to the notification of termination, which payment shall be Company's sole remedy for any termination.
 - d. Company waives and releases Space Florida from any other claims or damages of any kind. Company expressly waives the right to bring against Space Florida any claim for damages for delay, acceleration, interference, extra work resulting from such delay, extended overhead, wage escalation, overtime wage provisions, lost opportunity, or lost profit or financial impact on Company's other projects.
6. Project Manager; Points of Contact.
- a. Space Florida has appointed a project manager who is responsible for enforcing the performance of this Agreement's terms and conditions and shall serve as a liaison with the Company. Space Florida's project manager is _____, _____@spaceflorida.gov, [phone number].
 - b. Contact person(s) for the Company:
 - c. Contact person(s) for Space Florida:
Contracts Compliance Manager, _____ contracts@spaceflorida.gov
7. NASA. Company is familiar with and shall comply with all applicable federal, state and local laws, rules, regulations, and requirements, including NASA, US Air Force, and US Navy directives, as applicable. Access by Company to NASA facilities or property is contingent upon compliance with

NASA security and safety policies and guidelines including, but not limited to, standards on badging, credentials, and facility and IT system/application access. Company shall not use “National Aeronautics and Space Administration” or “NASA” in a way that creates the impression that a product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. Company may not use NASA emblems (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) without review and approval by both Space Florida and NASA.

8. Waiver of Claims. Company hereby waives all claims against Space Florida, FDOT, NASA, its related entities, and employees of Space Florida, FDOT, NASA, and employees of their related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement for any injury to, or death of, Company’s employees or the employees of Company’s related entities, or for damage to, or loss of, Company's property or the property of its related entities arising from or related to activities conducted under this Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of Space Florida’s, FDOT’s, or NASA’s willful misconduct.

9. Environmental Reporting.
 - a. Company shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity, including items related to the space program. In the event such items are discovered at the Airport, Company shall cease its activities at the site and immediately notify the Space Florida’s Airfield Manager.
 - b. Company shall immediately report spills, releases, or emissions of hazardous materials that exceed a “Reportable Quantity” to Space Florida’s Airfield Manager. Reportable Quantities for hazardous materials are defined by various federal and State of Florida regulations such as, but not limited to, 40 CFR Part 302, 40 CFR Part 355, 49 CFR Parts 171-180, Florida Administrative Code (FAC) Chapter 62-150, and FAC Chapter 62-770.
 - c. Company shall also immediately report any spill or release of hazardous materials (regardless of quantity) to pervious surfaces or environmental media (such as grass, soil, groundwater, surface water, sediment, and gravel) to the Space Florida Airfield Manager.

10. Safety Reporting.
 - a. Contractor shall comply with Kennedy NASA Procedural Requirements (KNPR) 8715.3-3, Kennedy Space Center (“KSC”) Safety Procedural Requirements for Owner Organization’s Operating in Exclusive-Use Facilities, with the tailored version of KNPR 8715.3-3 Chapter 7 replacing Chapter 7 of the KNPR.
 - b. Contractor shall comply with the tailored version of KNPR 8715.3 - 3, Chapter 7 Mishaps and Close Calls as follows:
 - i. KSC-Reportable Mishaps are unplanned events arising from the acts or omissions of Contractor that result in at least one of the following:
 - The death of an individual.
 - Injury or illness to any individual that is not employed by Space Florida or Contractor, its agents or invited guests.
 - Damage to property outside the Shuttle Landing Facility defined area.
 - High visibility or high public interest event, including events that could bring OSHA or media attention to NASA.

- c. Contractor shall report all KSC-Reportable Mishaps to Space Florida, within a reasonable time upon the event being known (after appropriate emergency/medical response is notified and prior to the notification of OSHA), by notifying the Space Florida’s Project Manager identified in this Agreement.
- d. Contractor will support the safety culture at KSC, and report any unsafe activity, condition, event, or source of danger that they observe at KSC to Space Florida.
- e. Contractor shall comply with NASA regulations, and all other laws, policies, and guidelines that pertain to security, fire and emergency management.

11. **Agreement Documents; Order of Precedence.** This Agreement, together with the following Attachments attached hereto and all of which are incorporated herein by this reference, shall comprise the entire Agreement and supersede all previous agreements and understanding related thereto. This Agreement and the following attachments shall together be referred to as the “Agreement Documents”:

- a. **Attachment A** -- Space Florida Standard Agreement Terms and Conditions.
- b. **Attachment B** – Scope of Services, Schedule and Deliverables.
- c. **Attachment C** – Payment Schedule
- d. **Attachment D** – FDOT Funding Agreement. Company shall comply with all terms, conditions, and requirements of the FDOT Funding Agreement.
- e. **Attachment E** – State Audit Requirements

Upon discovery, Space Florida or the Company shall promptly notify the other in writing of any conflicts, ambiguities, inconsistencies, errors, or omissions in, between or among any of Agreement Documents and shall cooperate in effecting a resolution. In the event the parties disagree regarding the resolution, Space Florida shall make the final determination regarding which document and which terms and conditions govern in accordance with the following order of precedence: (i) duly authorized and executed amendments to this Agreement; (ii) this Agreement; (iii) Attachments.

12. **Counterparts; Facsimile Deemed as Original.** The parties may sign this Agreement in several counterparts, each of which will be deemed an original but all of which together will constitute one instrument. Acceptance of this Agreement may be made by facsimile or electronic transmission. Receipt of the facsimile, or electronic, transmission shall for the purposes of this Agreement be deemed to be an original, including signatures.

13. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof.

The parties are signing this Agreement on the Execution Dates below. The person signing on behalf of the Company warrants that he or she has the authority to bind the Company to the terms and conditions contained herein.

Space Florida:

Company:

By: _____
 Name: Denise Swanson
 Title: CFO/CAO

By: _____
 Name: _____
 Title: _____

Attachment A
Space Florida Standard Agreement Terms and Conditions

1. Public Records.

- a. Space Florida, subject to the provisions of Section 288.075, Section 331.326, Chapter 119 of the Florida Statutes, and applicable federal law, must permit public access to all non-confidential, non-proprietary or non-International Traffic in Arms Regulation (ITAR) controlled documents or other materials prepared, developed or received by it in connection with the performance of the obligations under this Agreement.
- b. This Agreement may be unilaterally cancelled for refusal by either party to allow public access to all documents, papers, letters, or other such materials subject to the provisions of Chapter 119 of the Florida Statutes and made or received in conjunction with this Agreement, other than those specified as confidential or exempt information.
- c. To the extent the Company is acting on behalf of Space Florida as provided under Subsection 119.011(2) of the Florida Statutes, the Company shall in accordance with Section 119.0701 of the Florida Statutes:
 - i. Keep and maintain public records required by Space Florida to perform the services under this Agreement.
 - ii. Upon request from Space Florida's custodian of public records, provide Space Florida 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 of the Florida Statutes or otherwise provided by law.
 - 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 the Company does not transfer the records to Space Florida.
 - iv. Upon the expiration of this Agreement, transfer at no cost to Space Florida, all public records in possession of the Company or keep and maintain public records required by Space Florida to perform the service. If the Company transfers all public records to Space Florida upon completion of the Agreement, the Company shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Company keeps and maintains public records upon completion of the Agreement, the Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Space Florida, upon request from Space Florida's custodian of public records, in a format that is compatible with the information technology systems of Space Florida.
 - v. If the Company fails to provide the public records to Space Florida within a reasonable time the Company may be subject to penalties under Section 119.10 of the Florida Statutes. Further, Space Florida may exercise any remedies at law or in equity, including, without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate this Agreement in accordance with the terms hereof.
 - vi. **If the Company has questions regarding the application of Chapter 119, Florida Statutes, to the Company's duty to provide Public Records relating to this Agreement, contact Space Florida's Custodian of Public Records at Space Florida, Carrie Bargas, 505 Odyssey Way, Suite 300, Exploration Park, FL 32899 or via telephone at 321-730-5301 x244, or email at cbargas@spaceflorida.gov.**

2. Indemnification. The Company shall indemnify and hold harmless NASA-KSC, United States Air Force, United States Navy, State of Florida, Department of Transportation, Space Florida, and their officers and employees to the fullest extent permitted by law from and against all claims, damages, losses, and costs, including but not limited to reasonable attorneys' fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Company and any other persons employed or utilized by the Company in the performance of this Agreement.
3. Sovereign Immunity. Space Florida's limits of liability are set forth in Section 768.28 of the Florida Statutes, and nothing herein shall be construed to extend the liabilities of Space Florida beyond that provided in Section 768.28 of the Florida Statutes. Nothing herein is intended as a waiver of Space Florida's sovereign immunity under Section 768.28 of the Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to anything which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of Space Florida's obligations under this Agreement are limited to the payment of no more than the per person amount limitation and the aggregate contained in Section 768.28 of the Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.
4. Waiver and Limitation of Liability. In no event shall Space Florida be liable to Company for indirect, special, or consequential damages, including, but not limited to, loss of revenue, loss of profit, cost of capital, or loss of opportunity regardless of whether such liability arises out of contract, tort (including negligence), strict liability, or otherwise, and Company waives all such damages. Space Florida shall not assume any liability for the acts, omissions, or negligence of Company its agents, servants, employees, or subcontractors. In all instances, Company shall be responsible for any injury or property damage resulting from any activities conducted by Company.
5. Insurance.
 - a. During the term of this Agreement, the Company shall procure and maintain, at its expense, the following insurance:
 - i. Business Automobile Liability Insurance: a combined single limit for bodily injury and property damage per accident of \$1,000,000 covering "any auto"; and mandatory limits for personal injury protection and uninsured motorist coverage;
 - ii. Commercial General Liability Insurance: a combined single limit for personal injury and property accident of \$1,000,000 per occurrence, \$2,000,000 combined single limit
 - iii. Worker's Compensation: statutory benefits, as required by law; and
 - iv. Employer's Liability Insurance: limits of \$100,000 bodily injury by accident, \$100,000 each employee bodily injury by disease, and a \$500,000 policy aggregate limit for bodily injury by disease.
 - v. Professional Liability Insurance in the amount of \$1,000,000 per claim, \$2,000,000 aggregate.
 - b. Both the business automobile and the commercial general liability insurance policies may be provided under a single policy or in combination with umbrella liability or other excess policies. All such policies of insurance shall be on an "occurrence basis". The Company may use blanket policies to satisfy these insurance requirements.
 - c. On or before the Effective Date of this Agreement, the Company shall provide Space Florida with Certificates of Insurance evidencing compliance with the coverage requirements in this section. Such certificates shall provide that the insurance policies will not be materially changed or canceled until at least thirty days' prior written notice has been given to the other party. Failure of Space Florida to demand such certificate or other evidence of full

compliance with these insurance requirements or failure of Space Florida to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Company's obligation to maintain such insurance.

- d. The Company shall add, at no cost to Space Florida, Space Florida as an additional named insured to the Company's liability insurance policy to protect Space Florida, its contractors and subcontractors, and their respective employees from claims related to death, injury, or property (real or personal) damage resulting from the performance of this Agreement.
 - e. All insurance and all renewals shall be issued by companies with a rating of at least "A-" "VIII" (or its equivalent successor) or better in the current edition of Best's Insurance Reports (or its equivalent successor, or, if there is no equivalent successor rating, otherwise acceptable to Space Florida) and be licensed to do and doing business in Florida.
 - f. No approval by Space Florida of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by Space Florida of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible.
 - g. All proceeds of insurance required for the protection of Space Florida and obtained by or under the control of the Company shall first be applied to satisfy the Company's obligations to Space Florida under this Agreement.
6. Intellectual Property. All plans, drawings, specifications, photographs, images, ideas, concepts, designs, sketches, models, programs, software, reports, work product, and other tangible documents and deliverables, whether draft or final, prepared, produced or provided, by Company pursuant to this Agreement (together the "Plans") are, shall be, and remain the sole and exclusive property of Space Florida, including any copyrights or patent rights to same. The Plans shall be considered as being specially ordered by Space Florida as "works made for hire" under 17 U.S.C. §101, and may be used in any manner at the sole discretion of Space Florida. Space Florida shall have full and sole Space ownership rights to the Plans. Company shall furnish Space Florida with such reproductions of any Plans as Space Florida may request at any time. Any reproductions shall be the sole and exclusive property of Space Florida who may use them without Company's permission for any purpose determined to be proper by Space Florida. In the event that the Plans are held not to be "works made for hire", then Company agrees that all Plans, whether in final form or draft, which result from any services performed by Company under this Agreement are hereby assigned exclusively to Space Florida, including any copyright, patent, trademark, and all other intellectual property rights. In all cases, Company further hereby expressly assigns all of its present and future rights therein to Space Florida, and agrees to execute and furnish, and to cause all the Company's subconsultants to execute and furnish, in favor of Space Florida separate assignment documents from time to time as requested by Space Florida. This Section shall survive any termination or expiration of this Agreement. Company shall be entitled to retain copies of the Plans for the Company's use and records. Space Florida shall be free to use the Plans for completion, renovation, additions, and expansion of the Project. Company shall have no liability for the Space Florida's reuse of such Plans for completion, renovation, additions, or expansions to the Project. Company shall require language in each of its subconsultants' contracts providing for Space Florida's ownership of all Project documents and the Plans. If necessary due to termination of this Agreement or failure of Company to perform under this Agreement, this provision authorizes Space Florida through other appropriate professionals to complete the Plans for their intended use and then use the Plans. The Company hereby transfers, grants, conveys, assigns, and relinquishes exclusively to Space Florida, all of the Company's right, title, and interest of every kind throughout the world in and to all intellectual property developed for Space Florida by the Company in conjunction with this Agreement, including all United States and International copyrights or patents thereto, and any renewals or extensions thereof, together with all other interests accruing by reason of international conventions with respect to intellectual property. The Company agrees to sign any additional documents and otherwise cooperate with Space

Florida, as may reasonably be requested, to further evidence, perfect, protect, or enforce the transfer under this Section 5. For this purpose, the provisions of this section shall survive the termination, for any reason, of this Agreement.

7. Notices.

- a. For a notice, or other communication, under this Agreement to be valid, it must be in writing and signed by the sending party, and the sending party must use one of the following methods of delivery: (1) personal delivery; (2) registered or certified mail, in each case return receipt requested and postage prepaid; and (3) nationally recognized overnight courier, with all fees prepaid. Delivery via facsimile, or email, is also permitted provided it is followed by delivery via one of methods (1)-(3) above and any such delivery via facsimile or email shall not be deemed to have been received pursuant to Subsection 6.c. until such delivery pursuant to methods (1)-(3) above shall be deemed to have been received pursuant to Subsection 6.c.
- b. For a notice, or other communication, under this Agreement to be valid, it must be addressed to the authorized receiving party at the addresses listed in Section 6 of the cover Agreement for the receiving party, or to any other address designated by the receiving party in a notice in accordance with this Section 6.
- c. Subject to Subsection 6.d., a valid notice or other communication under this Agreement is effective when received by the receiving party. A notice, or other communication, is deemed to have been received as follows:
 - i. if it is delivered in person, or sent by registered or certified mail, or by nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt; and
 - ii. if the receiving party rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which notice was not given, then upon that rejection, refusal, or inability to deliver.
- d. If a notice or other communication is received after 5:00 p.m. on a business day at the location specified in the address for the receiving party, or on a day that is not a business day, then the notice is deemed received at 9:00 a.m. on the next business day.
- e. Any notice requiring prompt action shall be contemporaneously sent by facsimile transmission or electronic mail.

8. Independent Contractor. The Company is and shall remain an independent contractor and not an employee of Space Florida or an agent of the State of Florida. This Agreement shall not be construed as a teaming, joint venture or other such arrangement. Nothing in this Agreement shall grant to either party the right to make commitments of any kind for or on behalf of the other party without the prior written consent of the other party.

9. Subcontractors:

- a. The Company is responsible for all services and work to be performed in connection with this Agreement.
- b. With prior written approval by Space Florida, the Company may, as appropriate and in compliance with applicable law, subcontract the performance of services set forth in this Agreement, provided however, that the Company shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract. The Company shall not enter into subcontracts in which Space Florida could be held liable to a subcontractor for any expenses or liabilities. The Company shall defend and hold Space Florida harmless from any liabilities incurred under any of the subcontracts entered into by the Company. The Company shall be liable for all work performed and expenses incurred as a result of any subcontract. Subcontractors are required to comply with the terms of this Agreement.

- c. The Company is encouraged to use Florida's minority and service-disabled veteran businesses as subcontractors under this Agreement. The Certified Vendor Directory can be accessed from the website of the Florida Department of Economic Opportunity of Management Services, Office of Supplier Diversity located at:
https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd.
- d. It is the policy of FDOT that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with FDOT funds under this Agreement. Company and its subcontractors agree to ensure that Disadvantaged Business Enterprises as defined in applicable federal and state regulations have the opportunity to participate in the performance of subcontracts under this Agreement. In this regard, Company shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform subcontracts
- e. Any and all such contracts that the Company enters into under this Agreement shall incorporate and require the subcontractor to comply with all of the provisions herein and the provisions requiring that such person or organization report on performance and account for proper use of funds provided under the contract (including the provision of audit rights when applicable).

10. Representations.

- a. The Company has the necessary and required Federal and State authority to enter into this Agreement with Space Florida.
- b. Neither this Agreement nor the Company's performance of its obligations hereunder will place the Company in breach of any other contract or obligation and will not violate the rights of any third party.
- c. The Company has all rights, title, and ownership of, in, and to the products, procedures, processes and/or services that the Company is delivering and/or providing to Space Florida pursuant to this Agreement, and the Company has full right and authority to provide and/or deliver the same to Space Florida.

11. Materials, Data and Records.

- a. All data, reports, job files, logs, computer printouts, CD-ROM files, the Company's submittals, summaries, memoranda and any and all other written work, documents, instruments, information, and materials (collectively "written work") prepared or accumulated by the Company especially for the services rendered under this Agreement shall be the sole property of Space Florida. Space Florida may reuse the written work at no additional cost, and Space Florida shall be vested with all rights of whatever kind and however created that may be in existence, provided, however, that the Company shall in no way be liable or legally responsible to anyone for Space Florida's use of any written work on another project.
- b. As requested by Space Florida, the Company agrees to deliver to Space Florida at the end of the term of this Agreement, or at any other time Space Florida may request, all lists, memoranda, notes, plans, records, hardware, software, and other documentation and data belonging to Space Florida, which the Company may possess or have under its control and which may have been produced prior to and including the date of termination. The Company shall also require that all subcontractors or employees agree in writing to be bound by the provisions of this Section.
- c. The Company shall permit and shall require its contractors and subcontractors to permit Space Florida's and Space Florida's authorized representative to inspect all work,

workmanship, materials, payrolls, and records and to audit the books, records, and accounts pertaining to this Agreement.

- d. Company shall preserve all contract records and documents for the entire term of this Agreement and for five (5) years after the later of: (i) the date of submission of Company's final services, or (ii) until all claims (if any) regarding the Agreement are resolved. During such period of time, Company shall retain and maintain all records and make such records available for an audit as may be requested by Space Florida. The records shall be subject at all times to inspection, review, or audit by State personnel of the Office of the Auditor General, Chief Financial Officer, FDOT, and Office of the Chief Inspector General. Space Florida may, at any time and for any reason whatsoever, review, audit, copy, examine and investigate in any manner, any records of Company which include, but are not limited to, papers, independent auditor working papers, books, documents, vouchers, bills, invoices, requests for payment, accounting records, and other supporting documentation, which according to generally accepted accounting principles, procedures and practices, sufficiently and properly reflect all costs expended in the performance of this Agreement.

12. Unauthorized Aliens. Space Florida shall consider the knowing employment of unauthorized aliens, as described in Section 274A(e) of the Immigration and Nationality Act (codified at 8 U.S.C. §1324a), and Section 448.09 of the Florida Statutes by the Company or any subcontractor cause for termination of this Agreement.

13. Scrutinized Companies List.

- a. By executing this Agreement, the Company certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725 of the Florida Statutes, (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473 of the Florida Statutes, or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5) of the Florida Statutes, Space Florida may immediately terminate this Agreement for cause if the Company is found to have submitted a false certification as to the above or if the Company is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If Space Florida determines that the Company has submitted a false certification, Space Florida will provide written notice to the Company. Unless the Company demonstrates in writing, within 90 calendar days of receipt of the notice, that Space Florida's determination of false certification was made in error, Space Florida shall bring a civil action against the Company. If Space Florida's determination is upheld, a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed on the Company, and the Company will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of Space Florida's determination of false certification by the Company.
- b. If federal law ceases to authorize the states to adopt and enforce the contracting prohibition in this Section 12, this Section 12 shall be null and void without further action of the parties.

14. No Third-Party Beneficiaries. This Agreement does not, and is not intended, to confer any rights or remedies upon any person other than the parties.

15. Amendments/Modifications. This Agreement may not be altered, modified, amended or changed in any manner, except pursuant to a written amendment executed and delivered by each of the

authorized Points of Contact. Additionally, any such modification, amendment or change shall be effective on the date of execution and delivery, or such later date as the parties may agree therein.

16. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall remain enforceable to the greatest extent permitted by law.
17. Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute arising out of or relating to this Agreement shall be subject to the exclusive venue of the United States District Court for the Middle District of Florida or the Eighteenth Judicial Circuit, in Brevard County, Florida.
18. Miscellaneous. The Company shall, and shall require all of its contractors and subcontractors that it utilizes under this Agreement to comply with the following requirements:
 - a. The Company shall comply with all applicable Federal, State and local laws, rules and regulations.
 - b. The Company affirms that it is aware of the provisions of Subsection 287.134(2)(a) of Florida Statutes, and that at no time has Company been placed on the Discriminatory Vendor List.
 - c. The Company shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, race, sex, creed, color, disability, national origin, or marital status.
 - d. The Company shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.
 - e. The Company shall provide a drug-free workplace with any allegation of substance abuse given priority attention and action by management.
 - f. The Company affirms that it is aware of the provisions of Subsection 287.133(2)(a) of the Florida Statutes, and that at no time has the Company been convicted of a Public Entity Crime. The Company agrees that it shall not violate such law and further acknowledges and agrees that any conviction during the term of this Agreement may result in termination of this Agreement by Space Florida.
 - g. The Company agrees to comply with subsection 20.055(5) of the Florida Statutes, including but not limited to, the duty of the Company and any of the Company's subcontractors to cooperate with the inspector general in any investigation, audit, inspection, review or hearing pursuant to section 20.055 of the Florida Statutes.
 - h. To the extent the Company is performing economic development services or similar business assistance services on behalf of Space Florida, the Company shall coordinate with other components of state and local economic development systems and shall avoid duplication of existing state and local services and activities under this Agreement.
 - i. This Agreement may not be assigned by either party without the prior written consent of the other.
 - j. The Company shall not use any state financial assistance as defined in section 215.971 of the Florida Statutes received pursuant to this Agreement for lobbying the Florida Legislature, the judicial branch, or any state agency.
 - k. To the extent travel is permitted under this Agreement, the Company and the Company's subcontractors shall comply with Space Florida's travel statutes, rules and policies.
19. Press Releases. Each of the parties hereto agrees that they shall not issue any press releases with respect to this Agreement without the prior written consent of the other party, which such consent shall not be unreasonably withheld.

20. State Audit Requirements. To the extent applicable, Company shall comply with the audit requirements of Section 215.97 of the Florida Statutes and those found in Attachment E attached, Audit Requirements. Company shall include the audit and record keeping requirements provided for in this Section and in Attachment E, in all subcontracts and for all sub-recipients of state funds according to Section 215.97 of the Florida Statutes. For purposes of this Agreement, “sub-recipient” shall be defined in accordance with Subsection 215.99(2)(x) of the Florida Statutes
21. Prohibition against Contingent Fees. Company warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Company 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 Company any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.
22. Prohibited Interests: No member, officer, or employee of Space Florida during this tenure or for two years thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Company and its subcontractors shall not enter into any contract, subcontract, or arrangement in connection with the Project or any property included or planned to be included in the Project, in which any member, officer, or employee of Space Florida during the term of this Agreement and for two years thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of his or her tenure with Space Florida, any such interest, and if such interest is immediately disclosed to Space Florida, SPace Florida with prior approval of FDOT, may waive the prohibition contained in this subsection, provided, that any such present member, officer or employee shall not participate in any action by Space Florida relating to such contract, subcontract, or arrangement. Company shall insert in each of their subcontracts, the following provision: "No member, officer, or employee of Space Florida during the term of this Agreement and for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."
23. Employment Eligibility Verification.
- a. The Company and the Company’s subcontractors performing work under this Agreement, shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the Company or the Company’s subcontractors during the term of this Agreement.
 - b. E-Verify is an Internet-based system that allows an employer, using information reported on an employee’s Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of federal contractors, however, may vary, as stated in Article II.D.1.c. of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security’s E-Verify system can be found at: http://www.dhs.gov/files/programs/gc_1185221678150.shtm.

If the Company or the Company’s subcontractors do not have an E-Verify MOU in effect, the Company or the Company’s subcontractors must enroll in the E-Verify system prior to hiring any new employee after the Effective Date of this Agreement.

Attachment B
SCOPE OF SERVICES FOR
CONSTRUCTION PHASE ENGINEERING & CONTRACT ADMINISTRATION

SHUTTLE LANDING FACILITY (SLF)
BLOCK 1 DEVELOPMENT
UTILITY CORRIDOR PROJECT

SPACE FLORIDA

OVERVIEW:

The following is a Scope of Services to provide Engineer of Record Construction Phase Engineering and Contract Administration (CA) services for the construction of the Shuttle Landing Facility (SLF) Cape Canaveral Spaceport Block 1 Development and Wetland Mitigation Areas. The Consultant shall provide engineer of record construction phase engineering and contract administration services for the Contract between Space Florida and Space Florida's Construction Manager(s) selected through a separate RFQ process, SF RFQ-01-0-2019. Independent Construction Engineering and Inspection (CEI) services will be solicited in a separate RFQ and the selected CA (this solicitation) will be ineligible to perform independent CEI services.

The design of the project was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and stormwater permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred to Space Florida. The St. Johns River Water Management District (SJRWMD) permit for the projects is valid until July 2024. Refer to Attachment B of RFQ-01-0-2019 for additional information.

The construction project generally includes:

- Clearing and grubbing
- Removal of unsuitable materials (demucking)
- Earthwork, grading and drainage improvements
- Roadway and utility corridor embankment
- Water mains and wastewater force mains
- Stormwater management systems and borrow areas
- Electrical and communication systems
- Wetland mitigation areas at Kennedy Space Center (KSC):
 - Impoundment sites T-17 and C-15-E
 - WCA-1 wetland creation near Jerome Road

SCOPE OF WORK DESCRIPTION:

The Construction Phase Engineering and Contract Administration (CA) services shall consist of

project management, engineering, site visits, meeting attendance, submittal/RFI review, certificate for payment review, and design interpretations to certify that the work is being performed in accordance with the Contract Documents. The Construction Manager(s) (CM or Contractor) is expected to be contracted using a modified version of AIA A133.

The Consultant shall provide CA services for the Contract between Space Florida and CM. The Consultants' services begin upon Space Florida's execution of an agreement with the CM and continue until project final completion and Consultant's approval of the last certificate for Payment. Consultant shall advise and consult with Space Florida, coordinate with the CA and CM and certify that the construction of the project is in accordance with the Contract Documents.

Services shall include:

- Provide Wetland Mitigation Construction Monitoring and Reporting. Provide oversight of wetland mitigation planting and construction. Prepare baseline and annual monitoring reports required by regulatory agencies.
- Project Management and Coordination: Consultant shall issue necessary interpretations and clarifications of the Contract Documents and prepare work directive changes and change orders as required.
- Coordinate with independent CEI consultant. The CEI will be selected separately to fulfill the requirements of FDOT Financial Assistance Agreement G1379 (FM#436863-1-94-04) that requires "limited construction engineering (CEI) services" including:
 - Providing qualified construction management for the oversight, administration, inspection, and record keeper responsibilities.
 - Reviewing CM test reports and performing independent testing for required quality control, inspection services including materials testing, pavement densities, soil compaction, concrete sampling, threshold inspections, surveying, code compliance, etc.
 - Performing final inspection and prepare summary report including a Certificate of Substantial Completion, Construction Cost Summary, Photos, and certification that the project was constructed in accordance with the plans and specifications.
- Consultant shall act as initial interpreter of the requirements of the Contract Documents.
- Pre-construction Conference and Construction Coordination Meetings: Attend meetings with Space Florida and Contractor(s), such as preconstruction conferences, progress/construction meetings, job conferences and other project related meetings
- Review and approve shop drawings, CM's schedule of values, and other submittals to evaluate conformance with design intent, construction documents, and permit requirements.
- Perform Site Visits and periodic on-site observations to verify progress of the

Contractor's work in order to determine if the construction is proceeding in accordance with the Contract Documents. Efforts will be directed toward determining whether the completed project will generally conform to the Contract Documents. Keep Space Florida and CEI informed of the progress of the work and identify defects and deficiencies of the work.

- Coordinate and attend bi-weekly construction coordination / progress meetings and other meetings as required.
- Respond to Requests for Information (RFI), job memoranda, and other construction inquiries.
- Review, evaluate, and provide input for change orders.
- Review Contractor's Certificates for Payment (payment application); recommend, approve and sign pay requests; certified payrolls; compliance with pay factors and testing requirements for construction pay items; review inspector reports and quantity logs.
- Attend substantial completion inspection; prepare substantial completion punch list items.
- Attend final completion inspection for the overall project; confirm that all punch list items are completed.
- Review as-built documents which are anticipated to be in AutoCAD format (i.e., final survey).
- Prepare Record Documents and AutoCAD files based upon information supplied by Contractor(s); submit all information electronically for Space Florida use.
- Receive and review written guarantees and other required close-out documents assembled by the Contractor(s).
- Utilize Space Florida's cloud-based, document management system for submittal logs, testing reports, change orders, RFIs, minutes, photos, invoices, drawings and final closeout documentation.
- Certify permit completion of:
 - SJRWMD Environmental Resources Permit (IND-009-16630-4).
 - Department of the Army Permit (SAJ-2013-02549).
 - FDEP Public Water System Construction Permit (0127833-050-DS).
 - FDEP Domestic Wastewater System Permit (CS05-0141772-032)
- Other support services as may be required.

Attachment C
Contract Price and Payment Schedule