

RESOLUTION NO. 23-197

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH C.A.P. GOVERNMENT, INC. FOR THE RESIDENTIAL AND COMMERCIAL PLANS REVIEW AND BUILDING INSPECTION SERVICES AT HOURLY RATES AS MORE FULLY SET FORTH IN THE BODY OF THE AGREEMENT.

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement with C.A.P. Government, Inc., for the residential and commercial plans review and building inspection services for the Building and Planning Department, at the hourly rates set forth in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 13th day of July, 2023.

CITY OF PANAMA CITY BEACH

By: 

Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

**PCB23-39 ITB RESIDENTIAL/COMMERCIAL PLAN REVIEW
AND BUILDING INSPECTION SERVICES**

AGREEMENT

RESIDENTIAL/COMMERCIAL PLAN REVIEW AND BUILDING INSPECTION SERVICES

THIS AGREEMENT is made and entered into this 13th day of July, 2023, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation (City) and C.A.P. Government, Inc. (Contractor or Vendor).

PREMISES

1. SCOPE OF WORK

Contractor/Vendor agrees to furnish and deliver all materials and perform all services and labor required for ("the Work"), as more particularly described in the Specifications listed in Invitation to Bid number PCB23-39.

If the Contractor/Vendor believes that any particular product is not within the scope of the contract, is a material change, or will otherwise require more compensation to the Contractor/Vendor, the Contractor/Vendor must immediately notify the City's Representative in writing of this belief. If the City's Representative believes that the particular work/service/product is within the scope of the contract as written, the Contractor/Vendor will be order to and shall continue to supply the work/service/product as changed and at the cost stated for the work/service within the scope. The Contractor/Vendor must assert its right to an adjustment under this clause within thirty (30) days from the date of the receipt of this agreement.

2. COMPENSATION

As compensation for supplying the product contemplated herein and performance rendered by the Contractor/Vendor of its duties and obligations hereunder, City shall pay Contractor/Vendor according to the not to exceed hourly bid prices submitted on PCB23-39 RESIDENTIAL/COMMERCIAL PLAN REVIEW AND BUILDING INSPECTION SERVICES. The City shall pay to the Contractor/Vendor as full consideration for the delivery of product and services required by this Agreement, at the HOURLY PRICE contained in the Contractor's cost proposal, upon the basis of actual measured quantities as the same may be finally determined by the City Manager or his/her designee(s).

A. Extra and/or Additional Work Changes – Should City at any time during the progress of said work request alterations, deviations, additions, or omissions from said specifications or other contract documents, it shall be at liberty to do so by written authorization to Contractor/Vendor, and the same shall in no way affect or make void the Agreement. The unit price of any such addition or deletion from the contract Bid price, must be mutually agreed upon by both parties.

3. PAYMENT

Contractor/Vendor will invoice for payment to the City monthly as work has been completed. The invoice(s) shall be delivered to accounts payable at City Hall, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413.

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4. TERM

Unless terminated sooner pursuant to the provision of the Termination clauses contained in paragraph 6, and subject to the availability of funds appropriated for this purpose, this Agreement shall take effect on the executed date of award and be valid for a period of one (1) year with an option to renew for two (2) additional one (1) year terms.

5. COMMENCEMENT OF WORK

Contractor/Vendor shall commence the Work within ten (10) days of issuance of a Notice of Award by the City.

The date shall be known as the "Commencement Date". Contractor/Vendor shall execute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Scope of Work and the time for completion stated therein. Contractor/Vendor shall not commence the Work until any required submittals are received and approved.

6. DELIVERABLES

- A. The Work is specified in the Scope of Work. Contractor shall deliver all products and deliverables as stated therein. Contractor is responsible for the professional quality, technical accuracy, and timely completion of the Work. Both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials provided. Unless otherwise specifically provided for herein, Contractor shall provide and pay for all materials, labor, and other facilities and equipment necessary for performance of the Work. The City's Building Official shall make a final acceptance inspection of the deliverables when completed and finished in all respects.
- B. If not otherwise addressed in the Scope of Work and/or Specifications, upon written request, Contractor shall submit written progress reports to the City's Building Official at the frequency requested in the form approved by the Building Official at no additional cost to the City. The progress report shall provide an updated progress schedule, taking into account all delays and approved changes in the Work. Failure to provide a progress report shall be cause to withhold payment.

7. OWNERSHIP OF DELIEVERABLES

All deliverables, including Work not accepted by the City, are City property when Contractor has received compensation therefor, in whole or in part. Any City source documents or other City or non-City documents, specifications, materials, reports, or accompanying data developed, secured, or used in the performance of the Work, excluding proprietary materials, as outlined in the Statement of Work, are City property and shall be safeguarded and provided to the City upon request. City plans and specifications shall not be used on other work and,

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with the exception of the original plans and specifications, shall be returned to the City upon request. This obligation shall survive termination or expiration of this Agreement.

8. TERMINATION OF CONTRACT

- A. City Termination for Cause – The Agreement may be terminated by the City for cause in the event of any breach hereof, including, but not limited to, Contractor/Vendor's: (1) failing to carry forward and complete the Work as provided herein; (2) failing to comply with applicable laws, regulations, permits, or ordinances; (3) failing to timely correct defective Work; (4) making a general assignment for the benefit of its creditors; (5) having a receiver appointed because of insolvency; (6) filing bankruptcy or having a petition for involuntary bankruptcy filed against it; (7) failing to make payments when due to subcontractors, vendors, or others for materials or labor used in the Work; (8) making a material misrepresentation to the City regarding the Work; (9) arrest or conviction of felony or fraud, or (10) any other material breach of this Agreement. In such event, the City shall provide Contractor/Vendor with written notice of its intention to terminate this Agreement, stating the nature of the deficiency and the effective date of termination. At the City's sole judgement and discretion, the City may afford Contractor/Vendor an opportunity to cure said deficiency, in which event the notice shall specify the time allowed. Upon termination, the City may take possession of the premises and of all materials thereon and finish the Work by whatever means it seems expedient.
- B. City Termination for Convenience – Notwithstanding any other provision hereof, the City may at any time terminate this Agreement or any Work issued under it, in whole or in part, without cause, upon thirty (30) days advanced written notice to Contractor/Vendor. In such event, Contractor/Vendor shall be compensated for any Work performed prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor, which shall become City property. Upon receipt of notice, Contractor/Vendor shall discontinue Work on the date and to the extent specified therein and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work not terminated. Contractor/Vendor shall also make every reasonable effort to cancel, upon terms satisfactory to the City, all orders or subcontracts related to the terminated Work. Contractor/Vendor may not claim any compensation not specifically provided herein, including, but not limited to loss of anticipated profits, idle equipment, labor, and facilities; or any additional claims of subcontractors and vendors.

9. COMPLIANCE WITH LAWS

The Contractor/Vendor shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Contractor/Vendor shall always

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observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Contractor/Vendor shall protect and indemnify the City of Panama City Beach and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Contractor/Vendor, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees. Additionally, Contractor/Vendor shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the federal government, State of Florida, Bay County, or municipalities when legally required, and maintain same in full force and effect during term of the contract.

10. WARRANTY

The Contractor/Vendor agrees that, unless otherwise specified in the specifications of the invitation to bid, the product furnished as a result of this invitation and award thereto shall be covered by the most favorable commercial warranty the Contractor/Vendor gives to any customer for comparable quantities of such products and that the right and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other provision of the invitation/offer.

11. INSURANCE AND INDEMNIFICATION

Contractor/Vendor shall at its own expense maintain in force during the term of the contract the insurance on policies and insurers acceptable to the City as required by the City's Insurance Requirements attached hereto as Exhibit "A".

- i. Within thirty (30) days of the date of the Award, and thereafter upon the written request of the City, Contractor/Vendor shall furnish to the City such certificates of coverage and certified copies of policies pursuant to the City's Insurance requirements in order to satisfy this provision, the documentation required by this part must be sent to the following address: ATTN: RISK MANAGEMENT DIRECTOR, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413.
- ii. Regardless of the coverage provided by any insurance, the successful Contractor/Vendor shall indemnify, save harmless and defend the City, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the successful Contractor/Vendor, its sub-contractors, agents, servants, or employees during the course of performing services or caused by the goods provided pursuant to these Bid documents and/or resultant contract.

If any third-party claim is made against the City that, if sustained, would give rise to indemnification liability of the Contractor/Vendor under this Agreement, the City shall promptly cause notice of the claim to be delivered to the successful Contractor/Vendor and shall afford the Contractor/Vendor and its counsel, at the Contractor's/Vendor's sole expense, the opportunity to join in defending or compromising the claim. The covenants contained in this paragraph shall survive the termination of this Agreement.

12. ATTORNEY'S FEES

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In the event of any litigation hereunder, each party shall be responsible for its own attorney's fees and court costs at all trial and appellate levels and at any mediation or arbitration.

13. TIME

Time is of the essence in this Agreement.

14. FORCE MAJEURE

The Contractor's/Vendor's failure or inability to perform the stated scope of work at any time as a result of circumstances beyond its control, such as, but not limited to, war, terrorism, strikes, fires, floods, hurricanes, acts of God, power failures, or damage or destruction of any facility related thereto, shall not be deemed a breach of this Agreement.

15. REMEDIES

In the event of failure of the Contractor/Vendor to deliver product in accordance with the contract terms and conditions, the City, after due written notice, may procure the products from other sources and hold the Contractor/Vendor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have. Failure to cure a breach of a material term hereunder within 24-hours of Contractor's/Vendor's receipt of written notice thereof shall entitle the City to terminate this Agreement. All rights and remedies conferred upon the parties in this Agreement shall be cumulative and in addition to those available under the laws of the State of Florida.

16. ASSIGNMENT

This Agreement may be assigned with the consent of the City Council.

17. SEVERABILITY

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

18. CHOICE OF LAW & VENUE

This Agreement shall be governed by the laws of the State of Florida. Any legal proceeding regarding this Agreement shall be brought in the 14th Judicial Circuit in Bay County, Florida.

19. MODIFICATIONS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City and Contractor/Vendor.

20. WAIVER

Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach

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and shall not be construed to be a modification of the terms and conditions of this Agreement.

21. NOTICES

Any notice required by this Agreement shall be directed to the parties as follows:

A. As to City:

City Representative: Mark McWaters

Title/Position: Building Official

116 South Arnold Road, Panama City Beach, FL 32413

Phone: (850) 233-5100, ext. 2319

B. As to Contractor/Vendor:

Contract Representative: Carlos A. Penin, PE

Title/Position: President

Email Address: cap@capfla.com

Mailing Address: 343 Almeria Avenue, Coral Gables, FL 33134

Phone: (305)448-1711

22. ENTIRE AGREEMENT

This Agreement, and any exhibits or appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written, and there are no representations, warranties, covenants or other agreements among the parties.

The term "Agreement" means and includes the following documents, all of which are incorporated into this Agreement by reference:

- Advertisement for Bids
- Information for Bidders
- Scope of Work/Specifications
- Bid Proposal Form
- Drug Free Work Place Statement
- Public Entity Crimes Statement
- Non-Collusion Affidavit
- E-Verify
- Terms and Conditions
- Notice of Award
- Agreement
- Exhibit A – Insurance Requirements
- Any Additional Exhibits or Appendices

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ADDENDA (S)

No. _____, dated _____, 20 _____

No. _____, dated _____, 20 _____

No. _____, dated _____, 20 _____

No. _____, dated _____, 20 _____

IN WITNESS WHEREOF, the Contractor/Vendor has executed this Agreement as of the day and year first written above.

Signed in the presence of: Contractor/Vendor

Witness 1: 

(Print Name): Carmelo Pifano

By: 
Contractor/Vendor

Witness 2: 

(Print Name): Monica De Castro

THE CITY OF PANAMA CITY
BEACH, FLORIDA,
a municipal corporation

By: 
Drew Whitman, City Manager

ATTEST:


City Clerk

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BID PROPOSAL FORM

TO: City of Panama City Beach, Florida

SUBMITTED: June 12th, 2023.

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The Undersigned, as Bidder, hereby declares that they have examined the bid specification and informed themselves fully regarding all terms and conditions pertaining to the product specifications.

The Bidder proposes and agrees, if this proposal is accepted, to contract with the City of Panama City Beach to perform the Work as specified in **PCB23-39 ITB RESIDENTIAL/COMMERCIAL PLAN REVIEW AND BUILDING INSPECTION SERVICES** in accordance with the terms and conditions and bid specifications.

SERVICE	FEE/HOUR	MINIMUM HOUR CHARGED
Residential Plan Review	\$ 90.00	1
Commercial Plan Review	\$ 90.00	1
Residential Code Inspection	\$ 82.50	2
Commercial Code Inspection	\$ 85.00	2
Ancillary Duties— Investigations, Complaints, Meetings, etc. Floodplain, Engineer, Architect, Fire Inspector Consultation	* please see following page	

NOTE:

The City reserves the right to reject any and all bids received and may award the contract based upon either lowest bid or a bid and delivery time which the City deems to be in its best interest.

By submission of this BID, Bidder certifies that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any other competitor.

In submitting this Bid, Bidder represents as more fully set forth in the agreement, that Bidder has examined copies of all the contract Documents and of the following Addenda:

Addendum No: _____ Dated: _____ Addendum No: _____ Dated: _____
 Addendum No: _____ Dated: _____ Addendum No: _____ Dated: _____

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Invitation to Bid – PCB23-39
Residential/Commercial Plan Review and Building Inspection Services

ANCILLARY DUTIES

The Ancillary Duties requested by the City of Panama City Beach (City) in the Invitation to Bid, "BID PROPOSAL FORM," are broad and include several services that require different levels of professionals in various trades. These include investigations of complaints, code violations, meetings, floodplain services, engineering and architectural services and fire inspector consultations.

C.A.P. Government, Inc. (CAP) has the capabilities to provide all of the services listed in this line item. We however propose to work with the City on a case-by-case basis to negotiate a scope of services and rates to provide a more accurate description of these ancillary duties.

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The undersigned declares that, after examining the Bid Documents for the above referenced service, she/he does hereby submit a response to the bid and warrants that:

1. She/He is an officer of the organization.
2. She/He is authorized to offer a bid in full compliance with all requirements and conditions, as set forth in the solicitation.

BIDDER:

C.A.P. Government, Inc.
Name of Business

Carlos A. Penin, PE
Name of Bidder

343 Almeria Avenue, Coral Gables, FL
Address

(305)448-1711
Phone Number

cap@capfla.com
Email Address


Signature of Authorized Representative

President
Title of Authorized Representative

06/07/2023
Date

[END OF BID PROPOSAL FORM]