

RESOLUTION 20-113

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH MARSHALL BROTHERS CONSTRUCTION & ENGINEERING, INC. FOR LIFT STATION 21 REPAIRS IN THE NOT TO EXCEED AMOUNT OF \$304,410.

BE IT RESOLVED that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Marshall Brothers Construction & Engineering, Inc., relating to the repair of Lift Station 21, in the amount of Two Hundred Eighty Nine Thousand, Four Hundred Ten Dollars (\$289,410.00), together with an additional not to exceed allowance of Fifteen Thousand Dollars (\$15,000.00) for contingencies, in substantially the form attached 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 28th day of May, 2020.

CITY OF PANAMA CITY BEACH

By: _____

Mark Sheldon, Mayor

ATTEST:

Jo Smith, Interim City Clerk

LIFT STATION 21 IMPROVEMENTS
 CITY OF PANAMA CITY BEACH
 BID DATE: MAY 13, 2020

Certified by: 
 Mark E. Shaeffer, P.E.

5/18/2020
 Date

BIDDER	BASE BID	ADD ALTERNATE BID 1	ADD ALTERNATE BID 2
Marshall Brothers Construction & Engineering Inc.	\$289,410.00	\$20,100.00	\$22,100.00
Royal American Construction Co., Inc.	\$304,062.00	\$15,563.00	\$15,563.00
L&K Contracting Co., Inc.	\$372,010.00	\$21,195.00	\$17,000.00
Gulf Coast Utility Contractors, LLC.	\$374,010.00	\$17,500.00	\$12,500.00

SECTION 00050

AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2020 by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called "OWNER") and Marshall Brothers Construction & Engineering, Inc., doing business as a corporation, having a business address of 2305 Transmitter Road, Panama City, FL 32404 (hereinafter called "CONTRACTOR") , for the performance of the Work (as that terms is defined below) in connection with the construction of **LIFT STATION #21 IMPROVEMENTS** ("Project"), to be located at the City of Panama City Beach, Florida, in accordance with the Drawings and Specifications prepared by the City of Panama City Beach, the Engineer of Record (hereinafter called "Engineer") and all other Contract Documents hereafter specified.

OWNER and CONTRACTOR, for the consideration herein set forth, agree as follows:

1. The CONTRACTOR shall furnish, at its sole expense, all supervision, labor, equipment, tools, material, and supplies to properly and efficiently perform all of the work required under the Contract Documents and shall be solely responsible for the payment of all taxes, permits and license fees, labor fringe benefits, insurance and bond premiums, and all other expenses and costs required to complete such work in accordance with this Agreement (collectively the "Work"). CONTRACTOR'S employees and personnel shall be qualified and experienced to perform the portions of the Work to which they have been assigned. In performing the Work hereunder, CONTRACTOR shall be an independent contractor, maintaining control over and having sole responsibility for CONTRACTOR'S employees and other personnel. Neither CONTRACTOR, nor any of CONTRACTOR'S sub-contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of

OWNER.

2. The CONTRACTOR will commence the Work required by the Contract Documents within ten (10) calendar days after the date of the NOTICE TO PROCEED to be issued by OWNER in writing within thirty (30) calendar days from the date of this Agreement and will achieve Substantial Completion of the Work within of the required commencement date as follows, except to the extent the period for Substantial Completion is extended pursuant to the terms of the Contract Documents ("Contract Time"):

<u>Completion Milestone</u>	<u>Calendar Days Following Notice to Proceed</u>
Construct all improvements for proposed Lift Station 21	120

Final Completion of the Work shall be achieved by CONTRACTOR within the time period set forth in Section 15.2 of Section 00100, General Conditions.

3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$250 for each calendar day that expires after the Contract Time for Substantial Completion for the work as more fully set forth in Section 15 of the General Conditions. Liquidated damages can accrue concurrently.
4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of \$289,410.00 as shown in the BID SCHEDULE, included within the Bid Proposal Form, as said amount may be hereafter adjusted pursuant to the terms of the Contract Documents ("Contract Price").

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

Section 00010	ADVERTISEMENT FOR BIDS
Section 00020	INFORMATION FOR BIDDERS
Section 00030	BID PROPOSAL FORM
Section 00040	BID BOND
Section 00050	AGREEMENT
Section 00060	PERFORMANCE BOND
Section 00070	PAYMENT BOND
Section 00080	NOTICE OF AWARD
Section 00090	NOTICE TO PROCEED
Section 00095	STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES, ON PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS
Section 00096	TRENCH SAFETY ACT CERTIFICATE OF COMPLIANCE
Section 00097	PUBLIC ENTITY CRIMES STATEMENT
Section 00099	CERTIFICATE OF INSURANCE
Section 00100	GENERAL CONDITIONS
Section 00800	SUPPLEMENTAL CONDITIONS

DRAWINGS prepared by the City of Panama City Beach Numbered G-000 through E-003 and dated April 2020.

SPECIFICATIONS prepared or issued by the City of Panama City Beach
Dated April 2020.

ADDENDA

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No. 1, dated May 5, 2020

No. 2, dated May 7, 2020

No. _____, dated _____, 20____

The Contract Documents also includes any written amendments to any of the above signed by the party to be bound by such amendment. The Contract Documents are sometimes referred to herein as the "Agreement".

6. The OWNER will pay the Contract Price to the CONTRACTOR in the manner and at such times as set forth in Contract Documents.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. This Agreement shall be governed by the laws of the State of Florida.
9. All notices required or made pursuant to this Agreement shall be in writing and, unless otherwise required by the express terms of this Agreement, may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, or (iii) by hand delivery to the appropriate address as herein provided. Notices to OWNER required hereunder shall be directed to the following address:

If to Owner:

City of Panama City Beach

17007 Panama City Beach Parkway

Panama City Beach, FL 32413
ATTENTION: _____
Tony O'Rourke, City Manager
Fax No.: _____
(850) 233-5108

If to Contractor:

Marshall Brothers Construction & Engineering, Inc.
2305 Transmitter Road, Panama City, FL 32404
ATTENTION: John M. Marshall - President
Fax No.: (850) 271-0293

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

10. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement the sales tax savings program as more fully described in the Sales Tax Exemption Addendum. If required by OWNER, the Sales Tax Exemption Addendum shall be made a part of the Contract Documents, the form of which is set forth in Section 00808.
11. The failure of OWNER to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
12. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.
13. Should any provision of the Agreement be determined by a court with

jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

14. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term “including” is not limiting, and the terms “hereof”, “herein”, “hereunder”, and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.

15. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be Mr. Mark E. Shaeffer, P.E. – Utilities Engineer.

16. CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, or ENGINEER may be responsible, in whole or in part, shall relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition

precedent to the aforementioned “No Damage For Delay” provision. This section shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may make a claim for its actual and direct delay damages accruing after said 90 calendar days as provided in Section 00805 Supplemental Conditions, Contract Claims and Changes. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

17. INSURANCE - BASIC COVERAGES REQUIRED

The CONTRACTOR shall procure and maintain the following described insurance on policies and with insurers acceptable to OWNER. Current Insurance Service Office (ISO) policies, forms, and endorsements or equivalents, or broader, shall be used where applicable.

These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

The CONTRACTOR and the CONTRACTOR'S subcontractors and sub-subcontractors shall be solely responsible for all of their property, including but not limited to any materials, temporary facilities, equipment and vehicles, and for obtaining adequate and appropriate insurance covering any damage or loss to such property. The CONTRACTOR and the CONTRACTOR'S sub-contractors and sub-subcontractors expressly waive any claim against OWNER arising out of or relating to any damage or loss of such property, even if such damage or loss is due to the fault or neglect of the OWNER or anyone for whom the OWNER is responsible. The CONTRACTOR is obligated to include, or cause to be included, provisions similar to this paragraph in all of the CONTRACTOR'S subcontracts and its subcontractors' contracts with their sub-subcontractors.

The CONTRACTOR'S deductibles/self-insured retention's shall be disclosed to OWNER and are subject to OWNER'S approval. They may be reduced or eliminated at the option of OWNER. The CONTRACTOR is responsible for the amount of any deductible or self-insured retention. Any deductible or retention applicable to any claim or loss shall be the responsibility of CONTRACTOR and shall not be greater than \$25,000, unless otherwise agreed to, in writing, by OWNER.

Insurance required of the CONTRACTOR or any other insurance of the CONTRACTOR shall be considered primary, and insurance of OWNER shall be considered excess, as may be applicable to claims or losses which arise out of the Hold Harmless, Payment on Behalf of OWNER, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE
COVERAGE

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The CONTRACTOR shall purchase and maintain workers' compensation and employers' liability insurance for all employees engaged in the Work, in accordance with the laws of the State of Florida, and, if applicable to the Work, shall purchase and maintain Federal Longshoremen's and Harbor Workers' Compensation Act Coverage. Limits of coverage shall not be less than:

\$1,000,000	Limit Each Accident
\$1,000,000	Limit Disease Aggregate
\$1,000,000	Limit Disease Each Employee

The CONTRACTOR shall also purchase any other coverage required by law for the benefit of employees.

The CONTRACTOR shall provide to OWNER an Affidavit stating that it meets all the requirements of Florida Statute 440.02 (15) (d).

COMMERCIAL GENERAL LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Commercial General Liability Insurance on a full occurrence form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, Broad Form Property Damage, Products and Completed Operation Liability Coverages and shall not exclude coverage for the "X" (Explosion), "C" (Collapse) and "U" (Underground) Property Damage Liability exposures. Limits of coverage shall not be less than:

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Bodily Injury, Property Damage & Personal Injury	\$1,000,000 Combined Single Limit Each Occurrence, and
Liability	\$2,000,000 Aggregate Limit

The General Aggregate Limit shall be specifically applicable to this Project. The Completed Operations Liability Coverages must be maintained for a period of not less than three (3) years following OWNER'S final acceptance of the project.

The CONTRACTOR shall add OWNER as an additional insured through the use of Insurance Service Office Endorsements No. CG 20.10.10.01 and No. CG 20.37.10.01 wording or equivalent, or broader, an executed copy of which shall be attached to or incorporated by reference on the Certificate of Insurance to be provided by CONTRACTOR pursuant to the requirements of the Contract Documents.

BUSINESS AUTOMOBILE LIABILITY COVERAGE

The CONTRACTOR shall purchase and maintain Business Automobile Liability Insurance as to ownership, maintenance, use, loading and unloading of all of CONTRACTOR'S owned, non-owned, leased, rented or hired vehicles with limits not less than:

Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit Each Accident
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EXCESS OR UMBRELLA LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Excess Umbrella Liability Insurance or Excess Liability Insurance on a full occurrence form providing the same continuous coverages as required for the underlying Commercial General, Business Automobile and Employers' Liability Coverages with no gaps in continuity of coverages or limits with OWNER added by endorsement to the policy as an additional insured in the same manner as is required under the primary policies, and shall not be less than \$1,000,000,each occurrence and aggregate as required by OWNER.

ADDITIONAL INSURANCE

The OWNER requires the following additional types of insurance.
[Either list any required insurance (e.g. Professional Liability Insurance) or indicate that none is required at this time]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) copies each of which shall be deemed an original on the date first written above.

(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH,
FLORIDA

ATTEST:

BY:

City Clerk

NAME: Tony O'Rourke
(Please type)

TITLE: City Manager

City Attorney (as to form only)

CONTRACTOR:

Marshall Brothers Construction &
Engineering, Inc.

ATTEST:

BY:

NAME: _____
(Please Type)

NAME _____
(Please Type)

ADDRESS: 2305 Transmitter Road
Panama City, FL 32404

END OF SECTION 00050

ORIGINAL

SECTION 00030

BID PROPOSAL FORM

This proposal of Marshall Brothers Construction & Engineering, Inc. (hereinafter called "BIDDER"), organized and existing under the laws of the State of Florida, doing business as a corporation (a corporation, a partnership or an individual), whose Florida contractor's license number is CGC061335 / CUC057306 is hereby submitted to the CITY OF PANAMA CITY BEACH (hereinafter called "OWNER").

In compliance with the requirements of the Advertisement for Bids, BIDDER hereby proposes to perform all WORK for the **LIFT STATION #21 IMPROVEMENTS** project in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of a joint BID, each party thereto certifies as to its own organization, 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 competitor.

BIDDER hereby agrees to commence WORK under the CONTRACT DOCUMENTS within ten (10) calendar days after the NOTICE TO PROCEED to be issued by Owner in writing and achieve Substantial Completion of the WORK within the following completion schedule in consecutive calendar days thereafter.

<u>Completion Milestone</u>	<u>Calendar Days Following Notice to Proceed</u>
Construct all improvements for Lift Station 21	120

Final Completion of the WORK shall be achieved by BIDDER within the calendar days specified in the General Conditions after the date of Substantial Completion.

BIDDER further agrees to pay as liquidated damages, the sum of \$250 for each calendar day that expires after the Contract Time for Substantial Completion as more

fully set forth in Section 15 of the General Conditions. Liquidated damages can accrue concurrently.

BIDDER acknowledges receipt of the following ADDENDUM:

Addendum No. 1; 5/5/20

Addendum No. 2; 5/7/20

Addendum No. _____

BASE BID

BIDDER agrees to perform all the WORK described in the CONTRACT DOCUMENTS for the following lump sum (Total Base Bid from Page 00030-3):
\$289,410.00

Total Additive Alternate 1: \$20,100.00

Total Additive Alternate 2: \$22,100.00

The BIDDER proposes and agrees, if this Proposal is accepted, to contract with the OWNER in the required form of the Agreement, Section 00050, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the WORK in full and in accordance with the shown, noted, described and reasonably intended requirements of the CONTRACT DOCUMENTS according to the following schedule:

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BID SCHEDULE

BASE BID

Item No.	Description	Unit	Quantity	Unit Price	Cost
BASE BID					
GENERAL					
1	Mobilization/Demobilization (Not to exceed 3% of the total base bid)	LS			\$ 8,600.00
2	Bonds and Insurance (not to exceed 2% of the total base bid)	LS			\$ 5,700.00
3	Prevention, Control and Abatement of Erosion and Water Pollution	LS			\$ 4,900.00
4	Surveying, Record Drawings and O&M Manuals (Not to exceed 1.5% of the total base bid)	LS			\$ 2,500.00
5	Selective Demolition of Lift Station 21 and Salvage of Components Indicated	LS			\$ 20,200.00
6	Sitework for Lift Station 21	LS			\$ 18,500.00
7	Construct Proposed Lift Station 21, Wetwell Top Slab, Hatches , Pump, Control Panel, Valve Vault, Piping, All Electrical, Etc.	LS			\$ 182,000.00
8	Construct All Other Improvements for Lift Station 21	LS			\$ 42,500.00
9	Testing Allowance	Allowance			\$ 2,000.00
10	Permit Fee Allowance	Allowance			\$ 500.00
11	Gulf Power Allowance	Allowance			\$ 2,000.00
12	Hold Harmless	LS			\$ 10.00
TOTAL BASE BID					\$ 289,410.00
ADDITIVE ALTERNATES					
1	Furnish and Install High Performance Protective Coating (Spectrashield) on Lift Station 21 Interior	LS			\$ 20,100.00
2	Furnish and Install High Performance Protective Coating (SprayWall) on Lift Station 21 Interior	LS			\$ 22,100.00

1. BIDS shall include sales tax and all other applicable taxes and fees. The OWNER may elect to utilize the Sales Tax Exemption Addendum (Section 00098) for material at its sole discretion.

2. BIDS shall be on the basis of a lump sum price as noted above, and shall be the total compensation to be paid by OWNER for the complete WORK. Final contract value will be adjusted based upon actual cost of allowance items.
3. Bid unit prices and quantities, shall be applicable for any revisions to the WORK (either additions or omissions). In addition, these unit prices and quantities shall be reflected in the Schedule of Values as specified in the General Conditions. All unit prices are understood to include all associated charges for layout, insurance, taxes, field office and supervision, overhead and profit, bonds and miscellaneous items.
4. The OWNER reserves the right to reject any and all bids received.
5. **Failure to insert a bid amount for any item in the Bid Schedule will be considered grounds for the OWNER to determine the BID is non-responsive. Total Base Bid shall prevail for the lump sum bid amount.**
6. By submitting this BID, the BIDDER and the BID BOND surety, are deemed to have stipulated and agreed that any and all claims, demands, actions or suits whatsoever, arising under this BID and/or BID BONDS, shall be subjected to the sole and exclusive jurisdiction and venue of the Circuit Court of Bay County, Florida. The BIDDER and BID BOND surety do agree, by submittal of this BID, that the sole and exclusive jurisdiction and venue in said forum is proper and appropriate since performance of the underlying contract to be awarded is to be accomplished within Bay County, Florida.

Bidder's Certification

BIDDER certifies that it has thoroughly familiarized itself with and inspected the site and has read and is thoroughly familiar with the CONTRACT DOCUMENTS. Additional site investigation, if deemed necessary by the BIDDER, shall be performed prior to BID submittal at the BIDDER's sole expense. Bidder certifies that the BID submitted is complete and is sufficient for the Bidder to provide a fully operational and working system in accordance with the CONTRACT DOCUMENTS. Furthermore, BIDDER certifies its understanding that neither the OWNER, PROJECT REPRESENTATIVE, nor ENGINEER shall provide any labor, equipment or materials of any kind, which may be required for the performance of the WORK, unless otherwise specifically directed by OWNER. Likewise, BIDDER certifies that it shall provide all equipment, materials, labor and services necessary to complete the WORK in accordance with the CONTRACT DOCUMENTS whether or not such equipment, material, labor, or service is expressly identified. Such occurrences are deemed subsidiary obligations of the contract for which complete compensation is made under the Lump Sum. The failure or omission of any BIDDER to do any of the foregoing shall in no way relieve any BIDDER from any obligation in respect to its BID.

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As required, the following documents are submitted with this Bid Proposal:

1. Bid Bond – Section 00040
2. Executed Statement Under Section 287.087, Florida Statutes, On Preference To Businesses With Drug-Free Workplace Programs – Section 0095
3. Executed Trench Safety Act Compliance Document – Section 00096
4. Executed Public Entity Crimes Statement – Section 00097
5. All acknowledged Addenda
6. Sales Tax Exemption Addendum – 00808

CONTRACTOR:

Marshall Brothers Construction & Engineering Inc.

John M Marshall, President

Address

2305 Transmitter Rd, Panama City, FL 32404

850-265-8742

Phone Number

5/13/2020

Date

END OF SECTION 00030