

RESOLUTION 21-154

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH L & R CONTRACTING, LLC FOR THE CONSTRUCTION OF THE PANAMA CITY BEACH – HOMBRE CIRCLE CULVERT IMPROVEMENTS & CLEANING PROJECT IN THE AMOUNT OF \$225,991, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS FOR UNFORSEEN CIRCUMSTANCES AND UNDER CERTAIN CONDITIONS IN AN AMOUNT NOT TO EXCEED \$10,761.57.

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 L & R Contracting, LLC, relating to the Panama City Beach – Hombre Circle Culvert Improvements & Cleaning Project, in the amount of Two Hundred Fifteen Thousand, Two Hundred Twenty Nine Dollars and Forty Three Cents (\$215,229.43), 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.

AND BE IT FURTHER RESOLVED that the City Manager is authorized to execute and deliver on behalf of the City change orders for unforeseen conditions related to this project in a cumulative amount that does not exceed Ten Thousand, Seven Hundred Sixty One Dollars and Fifty Seven Cents (\$10,761.57), provided that the City Engineer certifies that the change order does not result in a fundamental change to the scope of the project or standard of materials used, the Finance Director confirms the contingency amount set forth herein is not exceeded, and the City Attorney has reviewed the form of the change order.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 13 day of May, 2021.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

SECTION 00050
AGREEMENT

THIS AGREEMENT, made this 13 day of May, 2021, by and between, the City of Panama City Beach (hereinafter called "OWNER") and L & R Contracting, LLC doing business as a corporation, having a business address of 1155 E. 17th Street Panama City, Florida 32405 (hereinafter called "CONTRACTOR"), for the performance of the Work (as that term is defined below) in connection with the construction of the **PANAMA CITY BEACH - HOMBRE CIRCLE CULVERT IMPROVEMENTS & CLEANING** (Project), to be located in Bay County, Florida, in accordance with the Drawings and Specifications prepared by **McNEIL CARROLL ENGINEERING, INC.**, the Engineer of Record (hereinafter called "ENGINEER") and all other Contract Documents hereinafter specified.

The OWNER and the 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, the 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 subcontractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of the OWNER.
2. The CONTRACTOR will commence the Work required by the Contract Documents within 10 calendar days after the date of the Notice to Proceed to be issued by OWNER in writing within 10 calendar days from the date of this Agreement and will achieve Substantial Completion of the Work within consecutive calendar days of the required commencement date, except to the extent the period for Substantial Completion is extended pursuant to the terms of the Contract Documents ("Contract Time"). Final Completion of the Work shall be achieved by the CONTRACTOR within the time period set forth in Section 15 of Section 00100, General Conditions.
3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$1,000.00 for each calendar day that expires after the Contract Time for Substantial Completion as more fully set forth in Section 15 of Section 00100, General Conditions.

- a. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of \$ 215,229.43 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").
4. The term "Contract Documents" means and includes the following documents, all of which are incorporated into this Agreement by this reference:
 1. ADVERTISEMENT FOR BIDS (SECTION 00010)
 2. INFORMATION FOR BIDDERS (SECTION 00020)
 3. BID (SECTION 00030)
 4. BID BOND (SECTION 00040)
 5. AGREEMENT (SECTION 00050)
 6. PERFORMANCE BOND (SECTION 00060)
 7. PAYMENT BOND (SECTION 00070)
 8. NOTICE OF AWARD (SECTION 00080)
 9. NOTICE TO PROCEED (SECTION 00090)
 10. DRUG-FREE WORK PLACE (SECTION 00095)
 11. CERTIFICATE OF COMPLIANCE WITH THE FLORIDA TRENCH SAFETY ACT (SECTION 00096)
 12. PUBLIC ENTITY CRIMES STATEMENT (SECTION 00097)
 13. SALES TAX AGREEMENT (SECTION 00098)
 14. CERTIFICATE OF INSURANCE (SECTION 00099)
 15. GENERAL CONDITIONS (SECTION 00100)
 16. SUBMISSION OF WORK SCHEDULE (SECTION 00801)
 17. PREVENTION, CONTROL AND ABATEMENT OF EROSION CONTROL (SECTION 00802)
 18. SPECIAL PROVISIONS (SECTION 01046)
 19. PERMITS AND FEES (SECTION 01065)
 20. REFERENCE STANDARDS (SECTION 01095)
 21. SPECIAL PROJECT PROCEDURES (SECTION 01100)
 22. ENVIRONMENTAL PROTECTION (SECTION 01110)
 23. SUBMITTALS (SECTION 01300)
 24. CONSTRUCTION PHOTOGRAPHS (SECTION 01380)
 25. MOBILIZATION/DEMOBILIZATION (SECTION 01505)

- 26. CONTRACT CLOSEOUT (SECTION 01705)
- 27. SITEWORK (SECTIONS 02110, 02200, 02211 AND 02222)
- 28. STORMWATER (SECTIONS 33400)
- 29. APPENDICES (APPENDICES A THROUGH F)
- 30. PLANS prepared by McNeil Carroll Engineering, Inc.
- 31. ADDENDA
 - No.1, dated _____, 2021.
 - No.2, dated _____, 2021.
 - No.3, dated _____, 2021.

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."

- 5. The OWNER will pay to the CONTRACTOR in the manner and at such times as set forth in the General Conditions (SECTION 00100) such amounts as required by the Contract Documents.
- 6. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
- 7. This Agreement shall be governed by the laws of the State of Florida.
- 8. 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:
 - 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, Florida 32413
 ATTENTION: _____
 Drew Whitman, City Manager
 Fax No.: _____
 (850) 233-5108

If to Contractor:

L & R Contracting, LLC
1155 E. 17th Street, Panama City, Florida 32405

ATTENTION: Rhonda Lewis

Fax No.:

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

9. The CONTRACTOR recognizes that the 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 the OWNER, the CONTRACTOR shall comply with and fully implement the sales tax savings program. As set forth in the Sales Tax Agreement, Section 00098.
10. The failure of the 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.
11. 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.
12. 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.
13. 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.

14. For this Project, the OWNER has designated a Project Representative to assist the OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by the OWNER for this Project, shall be Robert Carroll, P.E. of McNeil Carroll Engineering, Inc.
15. The 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 the CONTRACTOR of his/her duty to perform or give rise to any right to damages or additional compensation from OWNER. The CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against the OWNER will be the right to seek an extension to the Contract Time.
16. **INSURANCE - BASIC COVERAGES REQUIRED**

The CONTRACTOR shall procure and maintain the following described insurance, except for coverages specifically waived by the OWNER, on policies and with insurers acceptable to the 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 the 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. The 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 subcontractors and sub-subcontractors expressly waive any claim against the 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 the OWNER and may be disapproved by the OWNER. They may be reduced or eliminated at the option of the 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 the CONTRACTOR and shall not be greater than \$25,000, unless otherwise agreed to, in writing, by the OWNER.

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

Workers' Compensation and Employers' Liability Insurance Coverage

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 the OWNER an Affidavit stating that he/she meets all the requirements of Florida Statute 440.02 (13) (d).

Commercial General Liability Coverage

The 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:

Bodily Injury, Property Damage & Personal Injury Liability	\$1,000,000	Combined Single Limit Each Occurrence, and
	\$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 3 years following OWNER's final acceptance of the Project.

The CONTRACTOR shall add the 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 the 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

The 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 the 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 \$3,000,000, each occurrence and aggregate as required by the OWNER.

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

(SEAL)

ATTEST: *Lynne Fesone*

BY *City Clerk*
(Signature)

NAME *Stephan*

TITLE *City Attorney*

(SEAL)

ATTEST:

BY _____
(Signature)

NAME _____

TITLE _____

OWNER

CITY OF PANAMA CITY BEACH

BY *D. Whitman*
(Signature)

NAME Drew Whitman

TITLE City Manager

CONTRACTOR

BY _____
(Signature)

NAME _____

TITLE _____

ADDRESS: _____

Employer Identification
Number _____

END OF SECTION

MCNEIL
CARROLL
ENGINEERING, INC.

PROFESSIONAL ENGINEERING CONSULTANTS

April 29, 2021

Ms. Kelly Jenkins, P.E.
City of Panama City Beach
110 South Arnold Road, Florida 32413

Re: Hombre Circle Culvert Improvement and Cleaning
Award Recommendation
Panama City Beach, Florida
MCEI File No. 245.26

Dear Ms. Jenkins,

The City of Panama City Beach received bids from two (2) contractors for the **Hombre Circle Culvert Improvement and Cleaning** project on April 19, 2021.

After a thorough review of both bids, it was determined that all of the bidders were deemed responsive and that L&R Contracting, LLC. was the lowest responsive bidder. Therefore, we recommend that the City of Panama City Beach (City) award L&R Contracting, LLC. the contract for \$156,542.43.

The Notice of Award and Agreement (**Exhibit B**) are enclosed and are to be executed if the City Commission approves our recommendation.

Should you have any questions or require clarification, please do not hesitate to call.

Respectfully,

McNeil Carroll Engineering, Inc.



Sean McNeil, P.E.
President

**SECTION 00080
NOTICE OF AWARD**

TO: L & R Contracting, LLC

1155 E 17th Street, Panama City

Florida 32405

PROJECT DESCRIPTION:

**PANAMA CITY BEACH
HOMBRE CIRCLE CULVERT IMPROVEMENTS & CLEANING**

The City of Panama City Beach (OWNER) has considered the Bid submitted by you for the above-described Work in response to its Advertisement for Bids dated March 22 and March 29, 2021, and associated Information for Bidders.

You are hereby notified that your Bid in the amount of \$ 215,229.43 has been accepted by the OWNER. Provided, however, nothing in this Notice of Award or your delivery to the OWNER of the Agreement executed by you (with the required Bonds and Certificates of Insurance) shall in any manner or way be deemed to create any contract between you and the OWNER. No such contract shall be created unless and until the OWNER signs the Agreement.

You are required by the Information for Bidders to execute the Agreement and furnish the required CONTRACTOR's Performance Bond, Payment Bond, and Certificates of Insurance within 10 calendar days from the date of this Notice of Award.

If you fail to execute said Agreement, together with the required Certificates of Insurance and Bonds, within 10 calendar days from the date of this Notice of Award, the OWNER will be entitled to consider all your rights arising out of OWNER's acceptance of your Bid as abandoned and as a forfeiture of your Bid Deposit. The OWNER will be entitled to all other rights and remedies as may be available to it at law.

You must return an acknowledged copy of this Notice of Award to the OWNER, with the executed Agreement and required Certificates of Insurance and Bonds, within the above-noted 10 calendar day period.

Dated this _____ day of _____, 2021.

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CITY OF PANAMA CITY BEACH
OWNER

By: 

Name: Drew Whitman

Title: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By: _____ (Company Name).

This the _____ day of _____, 2021

By: _____ (Print and Sign Name).

Title: _____

END OF SECTION

