

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (hereinafter “Agreement”) is entered into by and between the City of Venice, Florida (the “City”), Dewberry Architects, Inc. (“Dewberry”) and TLC Engineering Solutions, Inc. (“TLC”), who shall collectively be referred to as the (“Parties”).

WHEREAS, in 2018 the City entered into a Standard Form of Agreement Between Owner and Architect with Dewberry for certain design services related to the construction of the Venice Public Safety Facility (“PSF”) and Dewberry retained TLC as a subconsultant to serve, amongst other things, as the Mechanical Engineer for the project,

WHEREAS, on July 17, 2019 the City provided a Purchase Order directly to TLC to perform as the Commissioning Agent on the above project,

WHEREAS, the PSF project was substantially completed in 2020 and subsequently a multitude of issues have arisen with respect to the functioning of the PSF’s HVAC system resulting in problematic conditions throughout the PSF,

WHEREAS, the City alleges that the HVAC system issues at the PSF are the result of the engineering design of the HVAC system, however, Dewberry and TLC deny any such claims,

WHEREAS, TLC alleges that the HVAC system issues are a result of controls issues and the City’s operation of the PSF outside of design and code required temperatures, however, the City denies any such claims,

WHEREAS, the City desires to undertake certain remediation work to address the functioning of the HVAC system at the PSF (“Remediation Work”),

WHEREAS, Dewberry and TLC have agreed to provide design-related services in furtherance of the Remediation Work as further specified herein,

WHEREAS, the City has agreed to provide the services of a separate Commissioning Agent for the Remediation Work as further specified herein,

WHEREAS, the City has agreed to provide the services of a Hahn Engineering to provide design review comments on the Remediation work as further specified herein,

WHEREAS, TLC has received a Notice to Proceed dated October 16, 2024 with scope document for the Remediation work.

WHEREAS, in entering into this Agreement, the Parties wish to settle their disputes and intend to fully settle any claims arising out of the engineering design of the HVAC system at the PSF.

NOW, THEREFORE, in consideration of the foregoing and of the terms, conditions and agreements hereinafter set forth, the Parties agree as follows:

1. **Recitals:** The above recitals are true and correct and incorporated herein.

2. **Settlement Payment:** In consideration of the promises and releases contained herein, TLC shall deliver a settlement payment in the amount of \$175,000 (one hundred seventy five thousand dollars) to the City within thirty (30) calendar days after the execution of this Agreement by all Parties. The settlement shall be made by bank wire to the account designated by the City.

Dewberry shall not be responsible for the settlement payment due from TLC to the City. In the event that TLC fails to fully make the settlement payment described herein, any releases given by the City in favor of TLC and/or Dewberry hereunder shall be deemed null and void until such time as the settlement payment is made in full. To the extent any releases described herein have yet to be provided by the City, the City shall not be obligated to provide such releases until the settlement payment is made in full.

3. **Remediation Work:** Dewberry, as architect, and TLC, as engineer of record, agree to provide all usual and customary: (i) structural, mechanical and electrical design services and (ii) construction administration services, in furtherance of the Remediation Work, the scope of which Remediation Work is generally described in **Exhibit A** attached hereto. Such design services and construction administration services shall be further subject to the terms and conditions set forth on **Schedule A** appended hereto, which schedule shall not be construed as an exclusive list of the usual and customary services required.

Dewberry and TLC agree to provide the City with drawings for the Remediation Work for review on or before November 27, 2024. The City, through its consultant engineering firm, will review the plans for technical content to ensure that the plans address the concerns of the City relative to the HVAC system and will provide notice of its approval of the plans if and when they adequately address the concerns of the City; however, such review will not include means and methods or code related issues. The City shall endeavor to have their chosen Commissioning Agent review the drawings to ensure the scope of work accurately reflects testing to be performed by the commissioning agent. Should the Commissioning Agent be unavailable or fail to review such drawings, TLC will not be responsible for any material changes requested to be made by the Commissioning Agent thereafter, and any such material changes that TLC must make to such drawings at a later date, shall be considered “additional services” in which TLC shall be compensated for by the City.

The City shall provide written comments on the review drawings, no later than December 5th, 2024. To the extent that the City does not believe any aspect of the plans adequately addresses its concerns, the Parties will work together as expeditiously as possible and in good faith to resolve the issues.

Dewberry and TLC agree to provide the City with drawings for permit submission on or before December 12, 2024. Furthermore, Dewberry and TLC agree to respond to comments from the Authority Having Jurisdiction and submissions of revisions to obtain a permit, if necessary.

Dewberry and TLC acknowledge it is important to the City that the Remediation Work be substantially completed before June 1, 2025, if feasible. The City acknowledges that Dewberry and TLC have no control over the City, their contractors, or manufacturing timeframes for long lead equipment. The City agrees that Dewberry and TLC shall not be held liable for the City's or its agents failure to substantially complete such work by such date. To this end, Dewberry and TLC commit to the schedule above, and the review of long lead equipment as submitted by the contractor for potential early release. Further, Dewberry and TLC agree to perform their services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Remediation Work.

4. **Release of Claims:** In consideration of this Agreement: (i) upon the execution of the Agreement by all Parties, the City will provide a release to Dewberry and TLC for all claims known or should have been known arising out of or related to all prior services they performed regarding TLC's scope of work at the PSF other than claims for latent defects not related to TLC's HVAC scope of work, and not for the services described herein related to the Remediation Work; (ii) upon substantial completion of the Remediation Work, the City will provide Dewberry a release for the services it has performed related to the Remediation Work; and (iii) upon the completion of the City re-commissioning the Remediation Work approximately six months after an initial commissioning, the City will provide TLC a release for the services it has performed related to the Remediation Work. The City currently has no knowledge of any other latent defect claims related to TLC's scope of work at the PSF.

5. **No Compensation for Remediation Work:** Dewberry and TLC acknowledge and agree that they will receive no compensation or remuneration of any kind from the City for any of the services they perform in furtherance of the Remediation Work.

6. **No Admission of Liability:** The Parties agree that neither this Agreement nor the furnishing of any consideration under this Agreement shall be construed as an admission or concession by Dewberry and/or TLC of any liability. It is understood and agreed that this settlement is the compromise of a disputed claim, and that the settlement payment is not to be construed as an admission of liability on the part of Dewberry and/or TLC as to the claims and that Dewberry and TLC deny any liability and intend merely to avoid potential litigation expenses.

7. **Applicable Law:** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The Parties agree to submit to the jurisdiction of the State Courts situated in Sarasota County, Florida in any action arising out of or related to this Agreement and such Courts shall be the sole, exclusive venue for any proceeding arising out of or related to this Agreement.

8. **Entire Agreement:** The Parties have participated in the negotiation of this Agreement. Hence, this Agreement shall not be interpreted or construed against or in favor of any one party. The Parties agree that this Agreement sets forth the entire agreement between the Parties on the subject matter of this Agreement and shall supersede all prior agreements or understandings whether written or oral, between the Parties.

9. **No Amendment:** This Agreement can only be amended by written agreement signed by the Parties.

10. **Counterparts:** This Agreement may be executed in any number of counterparts and by facsimile or other electronically provided signature, such as a PDF copy, each of which shall be deemed to be an original, and all such counterparts together shall be deemed to constitute one and the same instrument.

11. **Advice of Counsel:** By their signature below, the Parties acknowledge and represent to one another that they have had adequate time to consider this Agreement; that they have consulted with their attorneys prior to signing this Agreement; and that they have had a reasonable opportunity to consult such attorneys with respect to all the terms, meaning, and effect of this Agreement.

12. **Authority:** The persons signing the Agreement below on behalf of the designated entity represent and warrant that they have full authority to settle the matters identified herein on behalf of the designated entity. They also further represent and warrant that they have executed the Agreement on behalf of and bind the designated entity. This Agreement shall be binding upon, and shall inure to the benefit of the Parties, and their successors, and assigns.

13. **Time is of the Essence:** Time is of the absolute essence as to the settlement payment obligation of TLC set forth herein.

14. **Prevailing Party:** In any action or proceeding between any of the Parties to enforce the terms of this Agreement, the prevailing party in such action or proceeding shall be entitled to collect and recover from the non-prevailing party in such action or proceeding all reasonable attorneys' fees and costs by such prevailing party through all levels of proceedings, including appeals, including litigation of entitlement and amount of fees and costs.

15. **Severability:** If any part of this Agreement is judicially determined to be invalid or severed, the Parties agree that all remaining parts shall retain their full force and effect to the maximum extent possible.

16. **No Waiver:** No waiver of any of the terms in this Agreement shall be valid unless in writing and signed by the Party to be charged. The waiver by any Party of any provision shall not operate or be construed as a waiver of any other provision or subsequent breach by any Party, shall not any waiver operate as a rescission of the Agreement. Any failure or forbearance by any Party to exercise any right or remedy with respect to the enforcement of this Agreement shall not be construed as a waiver of such Party's rights or remedies.

[SIGNATURES ON FOLLOWING PAGE]

DEWBERRY ARCHITECTS, INC.

By: _____
Print Name: _____
Title: _____
Date: _____

TLC ENGINEERING SOLUTIONS, INC.

By: _____
Print Name: _____
Title: _____
Date: _____

CITY OF VENICE

By: _____
Name:
Title:

ATTESTED:

By: _____
Kelly Michaels, City Clerk

APPROVED AS TO FORM AND LEGAL CORRECTNESS:

By: _____
Kelly M. Fernandez, Esq., City Attorney

SCHEDULE A

1. Dewberry and TLC shall perform their services consistent with the professional skill and care ordinarily provided by similar professionals practicing in the same or similar locality under the same or similar circumstances.
2. Dewberry and TLC shall provide their services in conjunction with the construction manager.
3. Dewberry and TLC shall each maintain insurance coverage for the duration of the Remediation Work for a “CONSULTANT” as described in **Exhibit B** “Insurance Requirements” attached hereto and shall provide to the City certificates of insurance evidencing compliance with the insurance requirements for a “CONSULTANT.”
4. Dewberry and/or TLC, as appropriate, shall consult with the City and the construction manager, research applicable design criteria, attend project meetings, communicate with project team members and report progress to the City.
5. The City recognizes that they will have opportunity to make comments on the drawings during the design phase, and should they desire to change any scope of work after the completion of the permit drawing set, Dewberry and TLC may be entitled to compensation for those City directed changes.
6. The City recognizes that Dewberry and TLC is in no way responsible for temporary conditions or phasing associated with replacement of the HVAC within the evidence storage areas. The intent is the HVAC system will be completely taken offline. The City shall be solely responsible for temporary evidence storage while the HVAC system is in the process of being modified.
7. Dewberry and/or TLC, as appropriate, shall coordinate its service with the City, the City’s consultants, and the construction manager. Dewberry and/or TLC, as appropriate, shall provide prompt written notice to the City if they become aware of any errors or omissions in such services or information.
8. Dewberry and/or TLC, as appropriate, in coordination with the construction manager, shall contact the governmental authorities required to approve the design documents and shall assist the City and the construction manager in filing documents required for approval of governmental authorities having jurisdiction over the project.
9. Dewberry and/or TLC, as appropriate, shall be responsible for reviewing laws, codes, and regulations applicable to their services.

10. Dewberry and/or TLC, as appropriate, shall prepare drawings and specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the work.
11. Dewberry and/or TLC, as appropriate, shall review shop drawings, product data, samples, and other similar submittals and additional information provided by the construction manager. Such reviews shall be performed promptly while allowing sufficient time for adequate review.
12. Dewberry and/or TLC, as appropriate, shall provide administration services (response to local permitting officials' comments, response to Contractor's RFI's, and representation at Owner/Construction meetings as deemed appropriate) during the duration of the construction.
13. Dewberry and/or TLC, as appropriate, shall advise and consult with the City and the construction manager during the construction phase of the Remediation Work.
14. Dewberry and/or TLC, as appropriate, shall visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the portion of the work completed and determine in general if the work observed is being performed in a manner indicating that the work when fully performed will be in accordance with the design documents. However, they shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. Dewberry and/or TLC, as appropriate, shall keep the City reasonably informed about the progress and quality of the work completed and report any defects or deficiencies observed in the work. At a minimum, the following site visits are to occur: (i) pre-installation site conference; (ii) periodic site visits (minimum of 2 and maximum 4); (iii) substantial completion visit; and (iv) final completion visit.
15. Dewberry and/or TLC, as appropriate, shall review and respond to requests for information about the design documents from the construction manager.
16. Dewberry and/or TLC, as appropriate, shall conduct a site visit to determine the date of substantial completion and the date of final completion, and issue Certificates of Substantial Completion. Such observations shall be conducted with the City to check conformance with the Remediation Work and to verify the accuracy and completeness of the list submitted by the construction manager of the work to be completed or corrected. Such site visits shall be coordinated to be performed approximately at the same time as the Commissioning Agent is completing its final testing or TLC shall not be responsible for any issues related to any defects later identified due to the City's Agent's failure to complete final testing and commissioning which shall be the sole responsibility and obligations of the City's Commission Agent.

17. Dewberry and TLC agree to comply with Florida's public records law by keeping and maintaining public records that ordinarily and necessarily would be required by the City in order perform the services under this Agreement; upon the request of the City's Custodian of Public Records, by providing the City with copies of or access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the costs provided by Florida law; by ensuring 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 term of the Agreement and following completion of the Agreement if the records are not transferred to the City; and upon completion of the Agreement by transferring, at no cost, to the Owner all public records in their possession or by keeping and maintaining all public records required by the City to perform the services under this Agreement. If Dewberry and/or TLC transfer all public records to the City upon completion of the Agreement, they shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Dewberry and/or TLC keep and maintain public records upon completion of the Agreement, they shall meet all applicable requirements for maintaining public records. All records stored electronically must be provided to the City, upon request for the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE ARCHITECT OR ENGINEER HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THEIR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS, KELLY MICHAELS, CITY CLERK, AT 401 W. VENICE AVENUE, VENICE, FLORIDA 34285 (941)882-7390, KMICHAELS@VENICEGOV.COM



CITY OF VENICE

401 W. Venice Avenue Venice, FL. 34285-2006

(941) 486-2626 Fax (941) 480-2970

RE: Scope Narrative Confirmation dated 9/5/24

Dear TLC Engineering Solutions,

This letter shall serve as the official **NOTICE TO PROCEED** for the project listed above.

The effective date of this Notice to Proceed is hereby established as October 16, 2024.

A copy of the Scope Narrative Confirmation and approval with clarifications dated 9/12/24 from Josh Dell, Esq. (jointly referred to herein as "the Scope") are enclosed.

December 2, 2024 has been established as the deadline to complete the work in the Scope.

All work is to be conducted in strict accordance with the Scope.

Your point of contact is Travis Hout. He may be reached at (941) 882-7673.

We look forward to working with you on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly M. Fernandez".

Kelly M. Fernandez, City Attorney

cc: Travis Hout, Fleet and Facilities Manager



MEMORANDUM

TO: City of Venice / Garcia Dell
FROM: TLC
DATE: 9/5/24
RE: **Scope Narrative Confirmation**

Design Conditions

Per the Florida Energy Code 2017, 2020, and 2023 edition

**SECTION C302
DESIGN CONDITIONS**

C302.1 Interior design conditions.

The interior design temperatures used for heating and cooling load calculations shall be a maximum of 72°F (22°C) for heating and minimum of 75°F (24°C) for cooling.

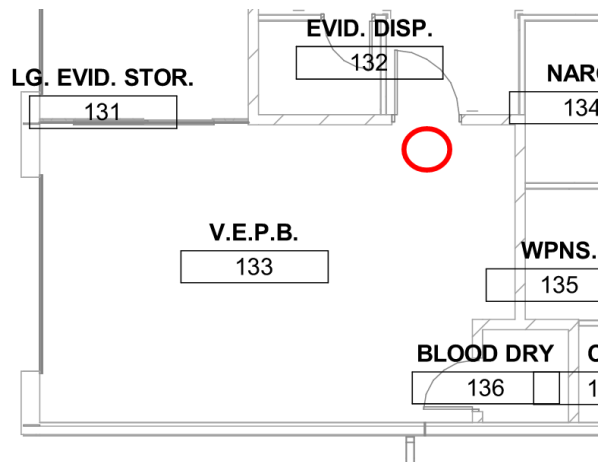
Current building operation has all thermostats during TLC's last site walk set below 75 degrees, with rooms measuring 68 degrees, below the minimum required by the Florida Building code. All cooling systems will be designed with 75 degrees as the minimum for cooling. Relative humidity targets will be based upon this temperature.

Note: Temperature settings lower than allowed by Florida Building Code will increase the relative humidity in inverse fashion to temperature.

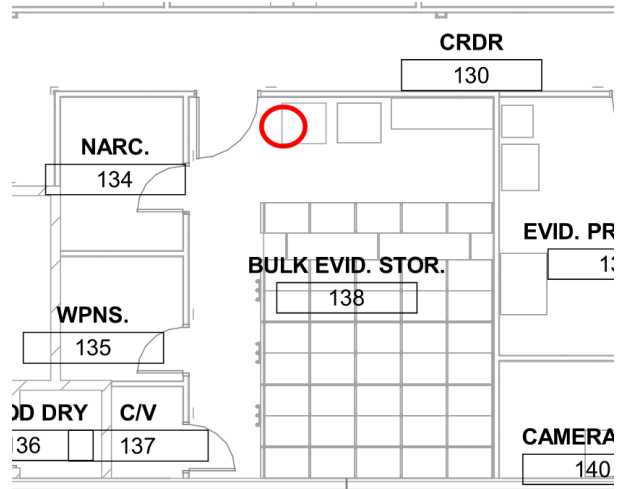
Bulk Evidence Storage, Narcotics, and Weapons will be designed around 75 degrees for cooling and 50% RH (Relative Humidity). All thermostats in these areas will be set to 75 degrees.

- **Phasing:** Per Meeting with City of Venice, Ajax, Dewberry, TLC and Garcia Dell, the City of Venice indicated that they would relocate the evidence to another area so the HVAC system in this area can be completely taken off line, to allow for demolition of ductwork and re-installation of new ductwork from new AHU without phasing or temporary units. This scope of work is not part of the project and solely the responsibility of the City. The City indicated that there is no phasing to construction or temporary Air Handler requirements as part of this work.
- New DOAU-1 is a dedicated outside air unit
 - Unit will be sized based upon minimum design conditions indicated above.
 - DOAU-1 shall serve only spaces as shown in the pricing set produced by TLC.
 - EF-133, EF-139, EF-Hood will be interlocked with DOAU-1 and shut down in the event DOAU-1 is offline for any reason.
 - DOAU-1 will shut down if E-139 shuts down for any reason.

- New Split System units – Room 133 VEPB
 - Location: **Confirm that the facility desires to have this unit installed as close as possible to the location indicated in red below.**



- **Sequence of operation requested (Choose an option)**
 - i. Unit will run concurrent with DOAU-01 in combined fashion.
 - ii. Unit will run only in the event that DOAU-01 is offline.
 - iii. Unit will run based upon algorithm that is tied to the temperature and humidity of the corridor.
 - iv. Unit will run whenever the VEPB vehicle bay door is open.
 - v. Other Sequence Requested (please identify).
- New Split System unit – Room 138 Bulk Evidence Storage (This is as indicated in the Proposal from AJAX.)
 - Unit will be sized to reduce the temperature in the room and will have no outside air supply.
 - This unit will not provide any cooling for adjacent spaces such as narcotics 134 or WPNS 135
 - Location: unit will be located Bulk Evid. Stor. 138 in the location shown.



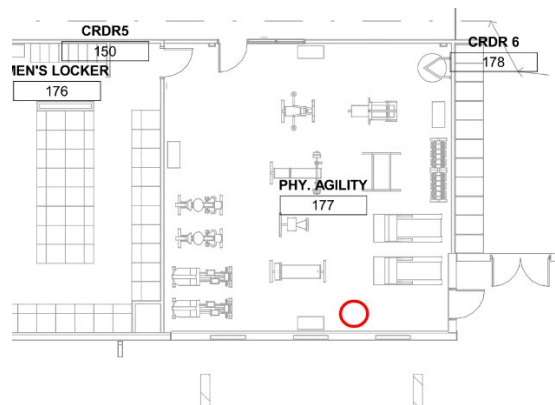
- **Sequence of operation requested (Choose an option)**

- vi. Unit will run concurrent with DOAU-01 in combined fashion. All outside air will be provided by DOAU-01.

- vii. Unit will run only in the event that DOAU-01 and EF-139 are both offline. This unit will create a neutral space, and temper air only in this space.

- **New Split System units – Room 177 Physical Agility**

- Location: System location will be somewhere along the wall shown below, as coordinated in the field by contractor.



- **Sequence of operation requested (Choose an option)**

- viii. Unit will run concurrent with AHU-B2 in combined fashion.

- ix. Unit will run only in the event that AHU-B2 is offline.

- x. Unit will run based upon algorithm that is tied to the temperature of the room.

- **Controls System confirmation:**

- The sequence of operation will be indicated on the drawings with input as provided above for each element within the system.

- All thermostats will be calibrated.

- It was noted during our site visit that multiple thermostats appeared to be outside of calibration.
 - A 2nd thermostat shall be added in Narcotics, bulk Storage, and Weapons. Control system will include a “Calibration Needed alarm” in the event a difference exists between the thermostats that is greater than 2 degrees.
 - A simple visible pressure monitor will be added to bulk evidence storage to provide visual confirmation that space is negative to the corridor.
- AHU-A1 Scope- AHU-A1 unit was noted to have an outside air damper that is open at 100% even with operation.
 - **Scope of work will require the following:**
 - Unit will be rebalanced to reflect the reduction of air required and returned as removed for DOAU-1.
 - Unit damper will be repaired to operate and modulate as required by original sequence of operation with revised air flow requirements based upon the reduction in space served.
 - Terminal unit heater operation for reheat will be reviewed by contractor and confirmed to operate within areas served from AHU-A1 including investigation and property and evidence.
 - Coils should be cleaned and filters replaced, and debris cleaned from the unit by the facility or city shall direct the team to include this in the contractor’s scope and the drawings.
 - Manufacturer shall have scope to review, modify as required, and adjust sequence of compressors to maintain lead lag/ runtime of compressors.
 - Control sequence Unit sequence will be modified as part of this project.
 - AHU-B1 and C1 are not modified in any way in this scope and will not be re-balanced nor will sequence of operation be modified or confirmed.
 - AHU-B2 is not physically modified in any way in this scope and will not be re-balanced, nor will outside air damper be verified. AHU-B2 sequence of operation will be modified or confirmed only if it is operating concurrently with unit in physical agility as indicated below. If the unit operates upon failure of AHU-B2, there will be no modification to AHU-B2 sequence of operation.

Test and Balance

- Contractor shall submit qualifications and experience of test and balance contractor including relative experience and qualification of the personnel assigned to the project.
- T&B contractor shall be qualified and have experience as it relates to similar complex projects such as public safety or healthcare facilities.

- Test and balance contractor shall perform a pre-test & balance of all areas served by AHU-A1 and AHU-B2 to confirm current operation is within +/- 10% of original design conditions.
- Anticipated Schedule
 - **Notice to proceed on the design to Dewberry and TLC. Notice and direction must be provided by City of Venice or Josh Dell.**
 - TLC will proceed with the final design and coordinate with Dewberry on the scope of work.
 - **Confirmation of scope, with all questions answered must be received within 2 weeks of notice to proceed to maintain schedule.**
 - TLC will issue progress drawings 6 weeks after notice to proceed from the City.
 - **This progress set must be reviewed and signed off by the City and City's engineer. All comments on the drawings shall be submitted in writing to TLC 1 week after the drawings are provided.**
 - TLC will issue final permit drawings / construction documents 8 weeks after notice to proceed.
- Construction (CA) Activities
 - **Owner will provide construction schedule for all areas of work, including schedule for test & balance.**
 - TLC anticipates (5) total site visits.
- All units and equipment shall be commissioned or re-commissioned and the Owner's Representative shall witness the functional testing of each element of equipment.

RE: City of Venice/TLC - Scope Confirmation

Josh Dell <jdell@garciadell.com>

Thu 9/12/2024 11:16 AM

To:Michelle Kane <michelle@bennettlegalgroup.com>;Roach, Meagan <mroach@Dewberry.com>;Kelly Fernandez <kfernandez@flgovlaw.com>

Cc:Brian Bennett <brian@bennettlegalgroup.com>;Bonnie Dillon <bonnie@bennettlegalgroup.com>

Michelle,

Scope is approved and answers to questions posed in the scope are below. Formal Notice to Proceed will be forthcoming.

Room 133 VEPB: i Unit will run concurrent with DOAU-01 in combined fashion. Please note the City does not want this unit running when the garage bay door is open.

Room 138 Bulk Evidence Storage: vii Unit will run only in the event that DOAU-01 and EF-139 are both offline.

Room 177 Physical Agility: viii Unit will run concurrent with AHU-B2 in combined fashion.



1819 Main Street, #300
Sarasota, FL 34236
Office 941.960.8101 | Facsimile 941.960.8102
jdell@garciadell.com

To ensure compliance with Treasury Department regulations, we advise you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

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From: Michelle Kane <michelle@bennettlegalgroup.com>

Sent: Friday, September 6, 2024 11:36 AM

To: Josh Dell <jdell@garciadell.com>; Roach, Meagan <mroach@Dewberry.com>; Kelly Fernandez <kfernandez@flgovlaw.com>

Cc: Brian Bennett <brian@bennettlegalgroup.com>; Bonnie Dillon <bonnie@bennettlegalgroup.com>

Subject: City of Venice/TLC - Scope Confirmation

Josh,

Please see attached TLC's scope. TLC will need confirmation of approval of scope, questions responded to

that are in bold and as previously discussed, the City needs to issue a Formal Notice to Proceed to TLC.

Thank you,

MICHELLE B. KANE, ESQUIRE, B.C.S.

Partner

Board Certified Construction Lawyer

Bennett Legal Group, P.A.

Construction & Business Litigation

850 Concourse Parkway South, Suite 100

Maitland, Florida 32751

407-734-4559 Telephone

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michelle@bennettlegalgroup.com

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SECTION 3: INSURANCE INFORMATION

Before performing any work, the CONSULTANT shall procure and maintain, during the life of the Contract, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best and Company rating of no less than A: VII. No changes are to be made to these specifications without prior written specific approval by the City.

1. The City of Venice is to be specifically included as an **ADDITIONAL INSURED** (with regards to General Liability and Business Auto).
2. The City of Venice shall be named as Certificate Holder. *Please Note that the Certificate Holder should read as follows:*

The City of Venice
401 W. Venice Avenue
Venice, FL 34285

No City Division, Department, or individual name should appear on the certificate. **NO OTHER FORMAT WILL BE ACCEPTABLE.**

3. The “Acord” certification of insurance form should be used.
4. Required Coverage
 - a) **Commercial General Liability:** including but not limited to bodily injury, property damage, contractual liability, products and completed operations, and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate covering all work performed under this Contract. Include broad form property damage (provide insurance for damage to property under the care custody and control of the CONSULTANT)
 - b) **Business Auto Policy:** including bodily injury and property damage for all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit covering all work performed under this Contract.
 - c) **Workers Compensation:** CONSULTANT will provide Workers Compensation Insurance on behalf of all employees, including sub-contractors, who are to provide a service under this Contract, as required under Florida Law, Chapter 440, and Employers Liability with limits of not less than \$100,000 per employee per accident; \$500,000 disease aggregate; and \$100,000 per employee per disease.
 - d) **Professional Liability:** with limits of not less than \$1,000,000 for professional services rendered in accordance with this contract. CONSULTANT shall maintain such insurance for at least two (2) years from the termination of this contract and during this two (2) year period the CONSULTANT shall use their best efforts to ensure that there is no change of the retroactive date on this insurance coverage. If there is a change that reduces or restricts the coverage carried during the contract, the CONSULTANT shall notify the City's Administrative Services Department within thirty (30) days of the change.
5. Policy Form:
 - a) All policies required by this Contract, with the exception of Workers Compensation, or unless specific approval is given by the City, are to be written on an occurrence basis, shall name the City of Venice, its Elected Officials, Officers, Agents, Employees as additional insured as their interest may appear under this Contract. Insurer(s), with the exception of Workers Compensation, shall agree to waive all rights of subrogation against the City of Venice, its Elected Officials, Officers, Agents, and Employees.

- b) Insurance requirements itemized in this Contract, and required of the CONSULTANT, shall be provided on behalf of all subcontractors to cover their operations performed under this Contract. The CONSULTANT shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
- c) Each insurance policy required by this Contract shall:
 - (1) apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability;
 - (2) be endorsed to state that coverage shall not be suspended, voided or canceled by either party except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the City of Venice's Director of Administrative Services.
- d) The City shall retain the right to review, at any time, coverage form, and amount of insurance.
- e) The procuring of required policies of insurance shall not be construed to limit CONSULTANT's liability nor to fulfill the indemnification provisions and requirements of this Contract.
- f) The CONSULTANT shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Contract and shall be solely responsible for the payment of any deductible and/or retention to which such policies are subject, whether or not the City is an insured under the policy. In the event that claims in excess of the insured amounts provided herein are filed by reason of operations under the contract, the amount excess of such claims, or any portion thereof, may be withheld from any payment due or to become due to the CONSULTANT until such time the CONSULTANT shall furnish additional security covering such claims as may be determined by the City.
- g) Claims Made Policies will be accepted for professional and hazardous materials and such other risks as are authorized by the City. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two years. If provided as an option, the CONSULTANT agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
- h) Certificates of Insurance evidencing Claims Made or Occurrence form coverage and conditions to this Contract, as well as the City's Bid Number and description of work, are to be furnished to the City's Director of Administrative Services, 401 West Venice Avenue, Venice, FL 34285, ten (10) business days prior to commencement of work and a minimum of thirty (30) calendar days prior to expiration of the insurance policy.
- i) Notices of Accidents and Notices of Claims associated with work being performed under this Contract, shall be provided to the CONSULTANT's insurance company and the City's Director of Administrative Services, as soon as practicable after notice to the insured.
- j) All property losses shall be payable to, and adjusted with, the City.

END OF SECTION