

FORM #2

AGREEMENT

THIS AGREEMENT is made and entered into this 27th day of March, 2023, by and between Cool and Cobb Engineering Company, a Florida corporation whose business address is 203 West Main Street, Avon Park, Florida 33825, (hereinafter referred to as "Contractor"), and The **CITY OF AVON PARK, FLORIDA**, a Florida municipal corporation whose business address is 110 East Main Street, Avon Park, FL 33825, and its successors and assigns (hereinafter referred to as "City").

WITNESS:

City and Contractor, in consideration of the mutual covenants set forth below, agree as follows:

1. SCOPE OF WORK

1.1. The "Bid Documents" include all of the city's documents provided to bidders in the request for bids, and all of the Contractor's documents submitted in response to the request for bids, and such documents are attached as Exhibit "A". This Agreement along with all Exhibits are referred to in Sections 2 & 3 of the Bid Documents as the "Formal Contract", and the Bid Documents and this Formal Contract shall collectively be hereinafter referred to as the "Contract Documents."

1.2. 2.1.5 **Detailed Scope of Work and Specifications for Project.** The Contractor's work progressing to completion of each Project, as to quality, progress and compliance with the Contract Documents on such Project, shall be defined as the Contractor's "Work." The Specifications for the Work are as provided on Page 2 of the Bid Documents attached hereto and made a part of the terms of this Agreement.

1.3. Contractor shall comply with all laws.

2. CONTRACT TIMES

Unless this Agreement is otherwise terminated as provided herein, the Work will be Substantially Completed within the time frame provided in the Approved Bid. The terms "Substantial Completion" or "Substantially Complete" are defined as the date when the construction is sufficiently completed, in accordance with the Contract Documents, so that the Project can be utilized for the purpose for which it was intended, including without limitation, permits for use from any applicable governmental agencies. After receipt of the Notice to Proceed Contractor shall commence performance of the Work on the agreed date and thereafter diligently proceed with the performance thereof to Final Completion, not to exceed the agreed Substantial Completion date and Final Completion date.

3. CONTRACT PRICE

The City shall pay Contractor for performance of the Work in accordance with the Contract Documents in current funds at the lump sum or unit prices ("Bid Prices") as presented in the Bid Documents, which are incorporated and made a part of this Agreement as attached or by reference as provided in Exhibit "A".

4. INDEMNIFICATION

4.1 Contractor shall indemnify and hold harmless the City as required in the Bid Documents.

4.2 Nothing herein or the remainder of the Agreement shall be construed to extend the City's liability beyond that provided in section 768.28, Florida Statutes.

5. INSURANCE

Contractor shall, at its sole cost and expense, procure and maintain throughout the term of this Agreement, Comprehensive General Liability and Worker's Compensation insurance as provided in the Bid Documents.

6. CORRECTION OF WORK; WARRANTY

Contractor shall at its own expense: (i) correct or re-execute any parts of the Work that fail to conform with the requirements of the Contract Documents and appear during the progress of the Work, (ii) correct any defects in the Work due to faulty materials or workmanship which appear within a period of one (1) year from Completion of the Work, and (iii) replace, repair, or restore any parts of the improvements, fixtures, equipment, or other items constituting a part of the Project as City's existing facilities placed therein (whether by City or any third party) that are injured or damaged as a consequence of any such failure or defect, or as a consequence of corrective action taken pursuant hereto. Should Contractor fail to make corrections required by this Article, City may do so at the expense and for the account of Contractor.

7. TITLE OF WORK

Immediately upon the performance of any of the Work, as between Contractor and City, title thereto shall vest in City; provided, however, the vesting of such title shall not impose any obligations on City or relieve Contractor of any of its obligations hereunder.

8. COMPLIANCE WITH LAWS

Contractor shall observe and abide by and perform all of its obligations hereunder in accordance with all applicable laws, rules, and regulations of all governmental authorities having jurisdiction, including the federal Occupational Safety and Health Act and all state and federal laws prohibiting and/or related to discrimination by reason of race, sex, or national origin. The Contractor is required to be familiar with and shall be responsible for complying with all federal, state, and local laws, ordinances, rules, and regulations that in any manner affect the work which include but are not limited to all applicable provisions of Appendix II to Part 200, Chapter 287.055 and 287.017 of the Florida Statutes.

9. TIME IS OF THE ESSENCE; SUSPENSION; TERMINATION

9.1 In all matters under this Agreement, time is of the essence. The City reserves the right to suspend the Contractor's prosecution of the Work to: 1) consider a change order request by Contractor or Engineer; 2) modify plans due to unforeseen conditions; 3) inspect Contractor's Work in the event that Engineer has a good faith concern over the quality or progress of the Work. The Contractor shall, upon receipt of the City's written notice ("Notice of Suspension") and within the time stated therein, suspend shipment and delivery of material and stop any part or all of the Work and operations hereunder for such period or periods of times as the City may deem advisable and designate in said Notice of Suspension. Upon receipt of such Notice of Suspension, the Contractor shall immediately confer with the City relative to the probable duration of such suspension and stopping, concerning delays and extensions of time resulting therefrom, the reduction and possible elimination of the Contractor's field costs, and with respect to such other prospective costs and expenses as may result directly from such work stoppage. The City shall have the right to suspend Work for up to fifteen (15) days without Contractor's right or claim to any form of damages, including without limitation, damages for delays. Upon the date provided in the Notice of Suspension, or by further written notice from the City, the Contractor shall promptly resume all or any part of the Work required by said resumption Notice of Suspension.

9.2 The City reserves the right to terminate this Contract, with notice to Contractor ("Notice of Termination"), at any time the City determines it does not wish to proceed with Contractor's construction of the Project, **with or without cause**. In such event the Contractor shall immediately cease all Work not specifically identified and authorized in the Notice of Termination, and be paid for such portions of the Work as he and/or his subcontractors may have completed, and for materials which have been provided, fabricated, or delivered, up to the date of termination. No allowance shall be made for any anticipated profit on that portion of the Work not completed. The above shall be in addition to all rights and remedies granted the City under this Agreement.

- 9.3 The rights and remedies of City and Contractor under this Article shall be non-exclusive and shall be in addition to all other remedies available to such parties at law or in equity.

10. WAIVER

No provision, requirement, default, or breach of this Agreement may be waived by either party except in writing, except that Contractor's claims for extra compensation, arising from changes in the Work or other causes, shall be waived unless written claim is made therefor within twenty (20) days of the event on which such claim is based.

11. LAWS APPLICABLE; VENUE; WAIVER OF JURY; ASSIGNMENT

This Agreement shall be governed by the law of the State of Florida. Venue for any dispute before a court of law shall be in state court, in Highlands County, Florida. The parties agree to waive any right to trial by jury. Neither party to the Agreement shall assign this Agreement without the written consent of the other; nor shall Contractor assign any monies due or to become due to it under the Agreement without the prior written consent of City. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on all the parties and their respective successors and assigns.

12. PUBLIC RECORDS ACCESS

If Contractor meets the definition of "contractor" found in Section 119.0701(1)(a), F.S. [i.e., an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then Contractor shall comply with Florida Public Records law under Chapter 119, F.S. Records made or received in conjunction with this Agreement may be public records under Florida law, as defined in Section 119.011(12), F.S., and Contractor shall keep and maintain public records required to perform the services under this Agreement.

This Agreement may be unilaterally canceled by the City for refusal by Contractor to either provide public records to the City upon request, or to allow inspection and copying of all public records made or received by the Contractor in conjunction with this Agreement and subject to disclosure under Chapter 119 F.S., and Section 24(a), Article 1, Florida Constitution.

If Contractor meets the definition of "contractor" found in Section 119.0701(1)(a), F.S.; [i.e., individual, partnership, corporation or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency], then the following requirements apply:

- (a) Pursuant to Section 119.0701, F.S., a request to inspect or copy public records relating to this Agreement for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify Contractor of the request, and Contractor must provide the records to the City or allow the records to be inspected or copied within a reasonable time. If Contractor fails to provide the public records to the City within a reasonable time, Contractor may be subject to penalties under s. 119.10, F.S.
- (b) Upon request from the City's custodian of public records, Contractor shall provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Contractor shall identify and ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.

Upon completion of the Agreement, Contractor shall transfer, at no cost to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the services under this Agreement. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate records that are exempt or confidential and exempt from public disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the

Contractor shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to City, upon request from the City's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS by telephone at (863)452-4405, by email at cityclerk@avonpark.city, or at the mailing address below:

City Clerk
City of Avon Park
110 East Main Street
Avon Park, FL 33825
cityclerk@avonpark.city
(863-452-4405 (T)
(863)452-4405 (F)

13. CAPTIONS; EXHIBITS

All exhibits hereto are incorporated herein as part of this Agreement. The captions appearing with the article or section number designations of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

14. DOCUMENT IS THE RESULT OF MUTUAL DRAFTSMANSHIP

The terms and conditions of this Agreement are the product of mutual draftsmanship by both parties, each being represented by counsel if so desired, and any ambiguities in this Agreement or any documentation prepared pursuant to it shall not be construed against either of the parties because of authorship. The parties acknowledge that all the terms of this Agreement were negotiated at arms' length, and that each party, being represented by counsel if so desired, is acting to protect its own interests.

15. NOTICE

Notices required herein shall be sent by hand delivery or by major U.S. courier service (FedEx, UPS, Express Mail, DHL) to the following persons from each party:

15.1 **To the City:** Mark Schrader, City Manager, 110 East Main Street, Avon Park, FL 33825

15.2 **To the Contractor:** _____

16. ATTORNEYS' FEES AND COSTS

If either party takes legal action to enforce the terms or conditions of this Agreement, whether through court or by arbitration, the prevailing party shall receive all costs of the action, including reasonable attorneys' and paralegals' fees, including appeals.

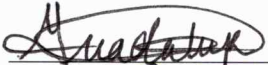
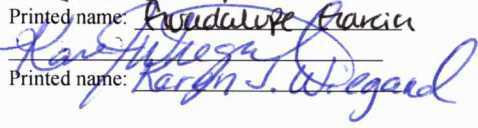
17. CONTRACT DOCUMENTS

RFQ 22-07 Professional Engineering Services for the Design of the City of Avon Park Fire Station
Hardening Project


The Contract Documents that comprise the entire agreement between City and Contractor are attached to this agreement, are made a part of this agreement, and consist of the following:

- 17.1 This Agreement.
- 17.2 Bid Documents (Composite Exhibit "A")

Witnesses:



Printed name: Wendell E. Francis

Printed name: Karen S. Wegard

CONTRACTOR

By: 
Carl E. Cool, P.E.
Cool and Cobb Engineering Co.
Vice-President

CITY

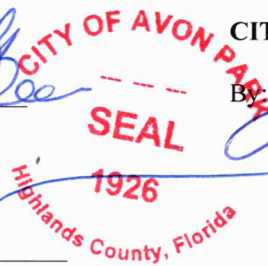
ATTESTED:


Christian Hardman, City Clerk

CITY OF AVON PARK, FLORIDA
By: 
Garrett Anderson, Mayor

APPROVED AS TO FORM:


Gerald T. Buhr, City Attorney



Bid Documents (Composite Exhibit "A")

Bid Documents include the following:

1. May 14, 2020 application of City of Avon Park for Fire Station Hardening Project.
2. Grant agreement between City of Avon Park and State of Florida.
3. RFQ # 22-07 Professional Engineering Services for the design of the City of Avon Park Fire Station Hardening Project.
4. September 2, 2022 proposal submittal by Cool and Cobb Engineering Company to the City of Avon Park.
5. October 10, 2022 City Counsel approval of contract to Cool and Cobb Engineering Company for the City of Avon Park Fire Station Hardening Project.
6. March 20, 2022 agreement between the State of Florida Department of Economic Opportunity and the City of Avon Park Florida.
7. November 2, 2022 amendment one to the federally funded Community Development Block Grant Mitigation Program (CDBG-MIT) Subrecipient Agreement.
8. March 27, 2023 Form #2 agreement between the City of Avon Park and Cool and Cobb Engineering Company.

Contract Times

Contract agrees to the following contract times:

1. Survey of existing fire house building by May 30, 2023.
2. Submission of conceptual plan of Hardening Project by August 30, 2023.
3. Submission of building preliminary plans by October 30, 2023.
4. Submission of final building plans and bid specifications and documents by December 30, 2023.

4. Indemnification

Indemnification shall be in accordance with section 1.15 of RFQ # 22-07 issued by the City of Avon Park on September 2, 2022.

5. Insurance

Insurance shall be in accordance with section 1.15 of RFQ # 22-07 issued by the City of Avon Park on September 2, 2022. Insurance certificate attached.

**CITY OF AVON PARK
PROFESSIONAL ENGINEERING SERVICES FOR
CITY OF AVON PARK FIRE STATION HARDENING PROJECT
RFQ #22-07**

E.) Payment Schedule:

We propose to provide you with all items under section B, "Proposed Services" for a lump sum of **\$65,421.00**. A 3% Surcharge Will Be Added To All Credit/Debit Card Payments. Upon final payment it is the Owner(s)/Contractor's responsibility to review and accept Plans as submitted.

I.)	Upon Acceptance of this Proposal	\$3,000.00
II.)	Upon Approval of Conceptual Site Plan	\$15,350.00
III.)	Upon Approval of Building Preliminary	\$24,700.00
IV.)	Upon Submission of Final Building Plans	\$22,371.00

F.) Fee Schedule and Additional Expenses: (These rates are valid for up to one year from date of Contract)

Labor Rates		
Item	Services	Hourly Rate
1)	Principal Rate	\$ 200.00
2)	Engineer Rate	\$ 175.00
3)	Architect	\$175.00
4)	Engineer Intern	\$ 125.00
5)	Architect Intern	\$125.00
6)	Designer/Draftsman	\$ 75.00
7)	Administrative	\$ 50.00

Copy Costs			
Item	Page Sizes	Black	Color
1)	8.5" x 11"	\$ 0.25	\$ 2.00
2)	11" x 17"	\$ 2.00	\$ 8.00
3)	24" x 36"	\$ 3.25	\$ 12.00
4)	36" x 48"	\$ 6.00	\$ 16.00
Travel Rate: \$1.00 Per Mile			
Postage, Shipping, or other Items are at cost plus 10%			



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/13/2022 05:14 PM

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Professional Insurance Experts 9355 John W. Elliott Dr Suite 25467 Frisco, TX 75033	CONTACT NAME: Tony Abrudeanu PHONE (A/C, No, Ext): 469-777-3025 E-MAIL ADDRESS: tony@proiexp.com INSURER(S) AFFORDING COVERAGE INSURER A : Lloyd's of London INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	FAX (A/C, No): 469-777-3976 NAIC #
INSURED Cool and Cobb Engineering Company 203 W Main Street Avon Park, FL 33825		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> Property Coverage GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ Property \$ COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						EACH OCCURRENCE \$ AGGREGATE \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? <input type="checkbox"/> Y/N <input type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						
A	Errors & Omissions, Professional Liability			W22D96220501	05/01/2022	05/01/2023	\$2,000,000 Each Claim \$2,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Engineering Firm.

CERTIFICATE HOLDER

City of Avon Park
110 E. Main Street
Avon Park, FL 33825

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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