

COUNCIL AGENDA STATEMENT



Meeting Date: March 8, 2022
To: Honorable Mayor and City Council
From: Carlos A. Solis, P.E., Director of Public Works
Through: George Garrett, City Manager

Agenda Item: **Resolution 2022-24** Approving The Professional Service Agreement Between The City And K2M Design Inc. For Design Services Associated With The Building And Marina Repair And Improvements To The Newly Acquired Seven Mile Marina In An Amount Not To Exceed \$133,763.00 ; Authorizing The City Manager To Execute The Contract And Appropriate Funds On Behalf Of The City; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The City recently purchased the Seven Mile Marina, which encompassed a marina with several docks that were heavily damaged by Hurricane Irma, as well as an existing building that requires major renovation to bring it up to current standards and make it usable for intended leases such as the Pigeon Key Foundation. The proposal includes fee for the plans and permitting of the dock facility as well as site utilities and total remodel of the existing building.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other _____	_____	_____
3. Not applicable _____		

FISCAL NOTE:

Approval of this resolution will appropriate funds of \$133,763 from the Marina Enterprise Fund for this project.

RECOMMENDATION: Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2022-24**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE PROFESSIONAL SERVICE AGREEMENT BETWEEN THE CITY AND K2M DESIGN INC. FOR DESIGN SERVICES ASSOCIATED WITH THE BUILDING AND MARINA REPAIR AND IMPROVEMENTS TO THE NEWLY ACQUIRED SEVEN MILE MARINA IN AN AMOUNT NOT TO EXCEED \$133,763.00 ; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND APPROPRIATE FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon, Florida (the “City”) approved Resolution 2020-22 on March 10, 2020 for the selection of professional engineering firms, pursuant to the Consultants Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes; and

WHEREAS, the City desires to engage the professional engineering services of K2M Design Inc. to assist with a detail assessment of the Seven Mile Marina property recently acquired by the City. The proposal submitted by K2M will provide a detail assessment of the building and plans for the renovation of the building and site through a professional services agreement in the amount of \$133,763.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The agreement between the City and K2M Design Inc. for professional services in an amount not to exceed \$133,763.00, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute the agreement and expend budgeted funds on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8th DAY OF MARCH, 2022.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

**AYES:
NOES:
ABSENT:
ABSTAIN:**

ATTEST:

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney

EXHIBIT "A"
PROJECT SPECIFIC AGREEMENT

**PROFESSIONAL ENGINEERING AND
PROGRAMMING SERVICES**

FOR

Seven Mile Marina Re-Development Project

PROJECT SPECIFIC AGREEMENT
Between
THE CITY OF MARATHON, FLORIDA
And
K2M DESIGN, Inc.
For
PROFESSIONAL ARCHITECTURE AND ENGINEERING SERVICES
FOR
SEVEN MILE MARINA RE-DEVELOPMENT PROJECT

Pursuant to the provisions contained in the “Continuing Services Agreement” between the City of Marathon, Florida (the “City”) and K2M Design, Inc., (the “Consultant”) dated March 10, 2020; this Project Specific Agreement authorizes the Consultant to provide the services as set forth below:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide engineering services to the CITY for the Project as described in the “Project Description” included in Exhibit “1.”

1.2 The “Scope of Services and Project Schedule” and tasks to be provided by the CONSULTANT for this Project are those services and tasks as included in Exhibit “1”.

1.3 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

2.1 As part of the Scope of Services and Project Schedule, the Consultant shall provide to the City the following Deliverables as included in Exhibit “1”.

SECTION 3. TIME OF PERFORMANCE/DAMAGE

3.1 **Commencement.** The CONSULTANT’S services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided this agreement. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the execution of the agreement by all parties. .

3.2 **Contract Time.** Upon receipt of the Notification of Commencement, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall

continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in the "Project Schedule," as noted in Exhibit "1". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.3 **Liquidated Damages.** Unless otherwise excused by the CITY in writing, in the event that the CONSULTANT fails to meet to the contract time for completion of services as determined by the Project Schedule, the CONSULTANT shall pay to the CITY the sum of dollars identified below per day for each and every calendar day unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$ N/A per day. The CONSULTANT may claim extension if the factors involved are not under their direct control.

Any sums due and payable hereunder by the CONSULTANT shall be payable, not as a penalty, but as liquidated damages representing and estimate at or before the time of executing this Agreement. When the CITY reasonably believes that completion will be inexcusably delayed, the CITY shall be entitled, but not required, to withhold from any amounts otherwise due the CONSULTANT an amount then believed by the CITY to be adequate to recover liquidated damages applicable to such delays. If and when the CONSULTANT overcomes the delay in achieving completion, or any part thereof, for which the CITY has withheld payment, the CITY shall promptly release to the CONSULTANT those funds withheld, but no longer applicable, as liquidated damages.

3.4 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "1" **\$133,763.00** plus reimbursable expenses not to exceed **\$N/A**. Total not to exceed amount for this Work Authorization is **\$133,763.00**, OR, IF HOURLY, "CITY AGREES TO PAY CONSULTANT COMPENSATION AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$_____.

4.2 **Reimbursable Expenses.** The following expenses are reimbursable at their actual cost: travel and accommodations, long distance telephone calls, facsimile, courier services, mileage (at a rate approved by the CITY), photo and reproduction services. All document reproductions are also reimbursable, at a rate approved by the CITY. N/A

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 Invoices

5.1.1 **Monthly Billing.** CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner.

These invoices shall identify the nature of the work performed, the personnel performing the work, the time worked and the total billing in accordance with the work performed during the period. Invoices will show the total amount billed against this work authorization and shall not exceed the not-to-exceed amount without authorization from the City. The CITY shall pay CONSULTANT within thirty (30) calendar days of approval by the City Manager of any invoices submitted by CONSULTANT to the CITY.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the CITY becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the CITY'S reasonable satisfaction.

5.4 **Retainage.** N/A

5.5 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the

termination. In the event that CONSULTANT abandons this Project Agreement or causes it to be terminated by the CITY, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the CITY for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

6.2 **For Convenience.** This Project Agreement may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Paragraph 5.1 of this Project Agreement. Under no circumstances shall the CITY make any payment to the CONSULTANT for services which have not been performed.

6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the CONSULTANT's work product shall become the property of the CITY and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Further, upon the CITY'S request, the CONSULTANT shall assign its rights, title and interest under any subcontractor's agreements to the CITY.

6.4 **Suspension for Convenience.** The CITY shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the CITY, the CONSULTANT shall immediately comply with same. In the event the CITY directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the CITY shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

SECTION 7. COMPLIANCE WITH LAW

7.1 **COMPLIANCE WITH LAWS** – The parties shall comply with all applicable local, state and federal laws and guidelines relating to the services that are subject to this Agreement. Federal regulations apply to all of the City of Marathon contracts using Federal funds as a source for the solicitation of goods and services. The following Federal requirements apply to this Emergency Agreement:

7.2 **ACCESS BY THE GRANTEE, SUBGRANTEE, FEDERAL GRANTOR AGENCY AND COMPTROLLER GENERAL:** The Contractor shall allow access by the grantee, subgrantee, Federal grantor agency and Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions.

7.3 **CLEAN AIR AND WATER ACTS:** The Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1386), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), (Contracts and/or subcontracts, and sub grants of amounts in excess of \$100,00.00).

7.4 **CONTRACT WORK HOURS AND SAFETY STANDARDS:** The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Constructions contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.)

7.5 **COPELAND ANTI-KICKBACK ACT:** The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction repair).

7.6 **COPYRIGHTS:** The Grantee is free to copyright original work developed in the course of or under the agreement. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes. Publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support, by granted number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA views.

7.7 **DISADVANTAGED BUSINESS ENTERPRISES (DBE) CONTRACTORS:** The contractor agrees to ensure that Disadvantage Business Enterprises as defined in 49 C.F.R. Part 23, as amended, have the maximum opportunity to participate in the performance of contracts and this agreement. In this regard, contractor shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 23, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. The contractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of federal assisted contracts.

7.8 **ENERGY POLICY AND CONSERVATION ACT:** The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

7.9 **EQUAL EMPLOYMENT OPPORTUNITY:** The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 C.F.R. Chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

7.10 **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)**—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

SECTION 8 INCORPORATION OF TERMS AND CONDITIONS OF CONTINUING SERVICE AGREEMENT

8.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated _____ between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

SECTION 9 Term/Time of Performance

9.1 This Project Specific Agreement shall be effective on the date it is fully executed by all parties and shall continue in full force for One year (s) or until completion of the Project, unless otherwise terminated pursuant to the Construction Management Services Agreement or other applicable provisions of this Project Specific Agreement. The City Engineer or Manager, in his sole discretion, may extend the term of this Project Specific Agreement through written notification to the Consultant. Such extension shall not exceed 180 days. No further extensions of this Project Specific Agreement shall be effective unless authorized by the City Engineer or Manager.

9.2 The Consultant's services under this Project Specific Agreement and the time frames applicable to this Project Specific Agreement shall commence upon the date provided in a written Notification of Commencement (“Commencement Date”) provided to the

Consultant from the City. The Consultant shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. Consultant must receive written notice from the City prior to the beginning the performance of services.

- 9.3 Upon receipt of the Notification of Commencement, the Consultant shall commence services to the City on the Commencement Date, and shall continuously perform services to the City, without interruption, in accordance with the time frames set forth in the Project Schedule.”

SECTION 10 Project Records

10.1 All final plans, documents, reports, studies and other data prepared by the Consultant or a subconsultant will bear the endorsement of a person in the full employ of the Consultant or the subconsultant and duly registered in the appropriate professional category.

10.2 After the City’s acceptance of final plans and documents, an electronic copy of the Consultant’s or the subconsultant’s drawings, tracings, plans and maps will be provided to the City at no additional cost to the City.

10.3 Upon completion of any construction by a contractor on a project assigned to Consultant, the Consultant shall furnish acceptable field verified "record drawings" of the work on full sized prints (and/or electronic data file if requested by the City). The Consultant shall signify, by affixing an appropriate endorsement on every sheet of the record sets that the work shown on the endorsed sheets was reviewed by the Consultant.

10.4 The Consultant shall not be liable for use by the City of said plans, documents, studies or other data for any purpose other than stated in the applicable Project Specific Agreement.

10.5 All tracings, documents, data, deliverables, records, plans, specifications, maps, surveys, field survey notes, and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of City, and reproducible copies shall be made available upon request to the City.

10.6 All project records shall be maintained by Consultant and made available upon request of the

10.7 City at all times for the duration of this Agreement and during the period stated by Florida Records Retention Schedules. During this time period the City Manager or designee have access to and the right to examine and audit any records of the Consultant involving transactions related to this Agreement, including its financial records. The City may cancel this Agreement for refusal by the Consultant to allow access by the City Manager or designee to any records pertaining to work performed under this Agreement.

SECTION 11 Ownership and Access to Public Records.

- 11.1 All records, books, documents, maps, data, deliverables, papers and financial information (the “Records”) that result from the Consultant providing services to the City under this Agreement shall be the property of the City.
- 11.2 The Consultant is a “Contractor” as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:
1. Keep and maintain public records required by the City to perform the service.
 2. Upon request from the City Clerk, 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.
 3. Ensure 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 contract term and following completion of the contract if the Consultant does not transfer the records to the City.
 4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City.
- 11.3 “Public Records” is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.
- 11.4 Should the Consultant assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the Consultant.
- 11.5 The Consultant consents to the City’s enforcement of the Consultant’s Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the Consultant shall pay all court costs and reasonable attorney’s fees incurred by the City.

- 11.6 The Consultant's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the Consultant shall be grounds for immediate unilateral cancellation of this Agreement by the City.
- 11.7 **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 CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-743-0033, CITYCLERK@CI.MARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.**

PAYMENT UNDER THIS PROJECT SPECIFIC AGREEMENT SHALL ONLY BE MADE FROM APPROPRIATIONS BUDGETED ON AN ANNUAL BASIS.

IN WITNESS WHEREOF, the parties have executed this instrument on this _____ day of _____, 20__.

CONSULTANT:

CITY:

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

Diane Clavier, City Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE CITY OF
MARATHON, FLORIDA ONLY:**

City Attorney

This agreement shall be executed on behalf of Consultant by its President or a Vice President. If executed by a person other than Consultant's President or a Vice President, then attach evidence of that person's actual authority to bind Consultant to this agreement.



EXHIBIT "1"

SCOPE OF SERVICES AND PROJECT SCHEDULE & FEES

DESIGN SERVICES PROPOSAL

Date: February 24, 2022

Client: **City of Marathon**
9805 Overseas Highway
Marathon, FL 33040
ATTN: Mr. Sean Cannon

Design Professional: K2M Design®, Inc.
3000 Overseas Highway
Marathon, FL 33050

PW: **Scott C. Maloney**

Project: 7 Mile Bridge Marina – City of Marathon

I. Scope of Services

- A. Design Professional shall provide architectural, civil, marine, structural, and MEP engineering, and interior design services for the redevelopment of the former Salty's site to create a development inclusive of a commercial charter fishing marina with dockage, restroom for charter boats; renovation of existing building to include new systems, storage, space for Pigeon Key (for ticket sales, small gift shop area, video waiting room), "depot" deck to include shade structure/trolley park on west side, self-service concession, utility space, and parking for charter boat patrons, employees, Pigeon Key trolley riders and visitors to the 7 Mile Bridge linear park. The plans shall include, at a minimum, the following by Phase:

Phase 1:

- Design Site utilities to include separating sewer service from adjacent building and connecting to service in front of property.
- Connecting electric and water to docks.
- Replacement of the existing dock / slips.
- Add one Boat Lift.
- Any required shoreline rip rap restoration.
- Add fish cleaning station(s).
- Building facility condition assessment.

Phase 2:

- Remodel existing small restroom building on-site for use as restroom for marina area by creating male and female facilities.
- Incorporate an outdoor shower into the building.
- Interior building plan for the different usages as determined in the planning session with staff. The anticipated layout will consist of space for Pigeon Key, restrooms, IT/electrical closet, rear area storage for marina tenants use, self-service concession area, additional building partition for future use.
- Any structural repairs that may be required.
- Specification for repair or replacement of the roof as may be required.

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

- Electrical plans as required to bring the building up to code and provide required service for proposed use.
- HVAC components for the building.
- Restrooms within the building to provide at a minimum two WC for male and female usage.
- Storage lockers along the inside of back wall for marina tenants.
- Rear deck for installation of freezers and ice machine for use by marina.
- Covered depot deck on west side of building for trolley passenger loading/unloading with opening into building.
- Covered drive for trolley adjacent to loading deck on west side of building.
- Removal of constructed bump-out on eastside of building.
- Replacement of existing windows and doors to impact windows and doors.
- Repair front façade as determined in the planning session.
- Specification for painting of entire building inside and out.
- Data infrastructure for computer usage, security camaras and the like.
- Site lighting plan.
- Dumpster enclosure.

Phase 3: Only IF the City leases additional space on far side of adjacent Chinese lobster building

- Civil for parking lot
- Creation of pathway from parking lot to Pigeon Key ticket office in main building

The project will be developed in a predesign, 30% schematic design, 60% design development, 90% / final design, permitting, bidding, and construction administration phases. The project will be bid to general contractors and no budget has been set for the project.

B. Refer to APPENDIX A for an expanded scope of work.

II. Conditions

A. Refer to APPENDIX B for list of drawings provided in base fee.

B. Refer to APPENDIX C for Stipulations, Exclusions, & Additional Services.

C. All terms and conditions shall be governed by the Master Agreement.

III. Compensation

A. For services described in Section IA, Client agrees to pay a fixed fee of AS NOTED IN FEE SCHEDULE as required to complete the services, unless otherwise mutually agreed to in writing. The fixed fee is inclusive of “Expenses” associated with the project excluding “Building Permit / Plan Review Fees” as well as “Assigned Consultants.” Refer to the Terms and Conditions in Appendix D.

Phase 1	\$30,000 (marine) + \$10,000 (utilities and site coordination) + \$4,200 (assessment)
	\$44,200.00
Phase 2	\$89,563.00
Phase 3	TBD upon City securing access to additional lot and establishing a concept plan

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

Total \$133,763.00

Deduct - \$4,000 if FDOT utility permit not required.

- B. Any items beyond those specifically outlined and described herein are Additional Services. Additional Services will be provided only after written amendment to this Agreement is received by Design Professional.

SCHEDULE

Design Professional shall perform its services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Client acknowledges that the completion of Design Professional’s services is dependent upon third-parties not under the control of Design Professional as well as the cooperation of Client. Design Professional will make reasonable efforts to complete its work within Client’s time constraints. However, Design Professional’s inability to satisfy Client’s time constraints for reasons beyond the control of Design Professional will not be deemed a breach of this Agreement.

- Project Commencement within (4) weeks after receipt of signed proposal
- PHASE 1 of the project will begin as soon as possible at commencement and include structural assessment of building and initial investigation, planning and permitting coordination for marina/dock reconstruction.
 - Facility Investigation 1 month
 - Marina design and submission 3 months
- PHASE 2 includes redevelopment of the existing large building and addition of side and rear decks, marina bathroom, and site lighting plan. Phase 2 can begin as soon as the facility investigation is completed.
 - Predesign Phase 2 weeks
 - Client Review 1 week
 - 30% Schematic Design 4 weeks
 - Client Review 1 week
 - 60% Design Development 4 weeks
 - Client Review 1 week
 - 90% Design 4 weeks
 - Client Review 1 week
 - 100% Final Design 2 weeks
 - Client Review 1 week
 - Permitting 3-6 months*
 - Bidding 2 months**
 - Construction TBD
- Should the City/Pigeon Key Foundation lease space from the adjacent lobster house for additional parking, K2M will provide an amendment for a PHASE 3 which will site design of parking area and connectivity to

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

- To be determined.

Schedule subject to change if Agreement is not signed within 30 days.

*Design Professional cannot guarantee permit issuance within a given time frame. The type of permit will be determined upon completion of the predesign phase as it relates to the ACOE / DEP.

** Bidding may be concurrent with permitting but only towards the end of the permit process to avoid unnecessary change orders for uncontrollable project delays by AHJs.

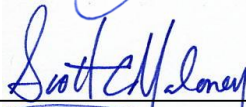
Please issue a contract for the work to be scheduled and commenced.

Signature – Date



K2M Design®, Inc. 2/25/22
Heather Carruthers, Principal in Charge

Printed Name Title



K2M Design®, Inc. 2/25/22
Scott C. Maloney, President

APPENDIX A: SCOPE OF WORK

The following page outlines an expanded Scope of Work (fee includes) by Design Professional:

K2M TASKS BY PHASE & ASSIGNMENTS BY DISCIPLINE		
	Pre-Design & Concepting Services	
Activity	Discipline	Role
Site Visit / Due Diligence	Architecture	Architect III
	Structural Engineering	Engineer II
Site Survey Coordination to get all that is needed for MEP	M/P Engineering	Director
Drafting - Existing Conditions	Architecture	Drafter III
	Structural Engineering	Engineer II
Reporting on the FCA	Asset Management	Asset Manager III
Internal Kick-off	Architecture	Director
	Architecture	Architect III
	Architecture	Architect III
	Architecture	Drafter III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Consultant Kick-off Meeting	Architecture	Architect III
Project Kickoff / Programming Meeting / Planning Session - 4 hour work session	Architecture	Director
	Architecture	Architect III
	Architecture	Architect III
Coordinate with City on Site Design	Architecture	Architect III
Concepting - Building Plans / Elevations - (2) options	Architecture	Architect III
	Architecture	Director
	Architecture	Drafter III
Finish Selections - 2 options	Architecture	Architect III
QA/QC	Architecture	Director
Client Submittal	Architecture	Architect III
Responses to Comments - Update drawings in 30% submittal phase	Architecture	Architect III

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

30% Submittal / Schematic Design		
Activity	Discipline	Role
Design Phase Kickoff Meeting	Architecture	Architect III
	M/P Engineering	Director
Schematic Design Drawings	Architecture	Drafter III
Schematic Design Refinement	Architecture	Architect III
Team Coord Mtg / Discuss Systems	M/P Engineering	Director
	M/P Engineering	Principal
	Architecture	Architect III
Design/Layout & System Selection	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
Utility Coordination	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
Engineering Coordination	M/P Engineering	Director
Client Coordination - 2 hours	Architecture	Architect III
Finish Selections - 2 options	Interior Design	Designer II
Interior Design Concept Board	Interior Design	Designer II
QA/QC	Architecture	Director
Client Submittal	Architecture	Architect III
Responses to Comments - Update drawings in 60% submittal phase	Architecture	Architect III
Presentation / Review Meeting - 1 hour	Architecture	Architect III
	M/P Engineering	Engineer II
60% Submittal / Design Development		
Activity	Discipline	Role
Design Phase Kickoff Meeting	Architecture	Architect III
	M/P Engineering	Director
Design Development Drawings	Architecture	Drafter III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Design Development Refinement	Architecture	Architect III
	M/P Engineering	Director
Client Coordination - 2 hours	Architecture	Architect III
Calculations, Design, & Modeling	Structural Engineering	Engineer II
ComCheck	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Architecture	Drafter III

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

Calculations: System Sizing, Duct calcs	M/P Engineering	Engineer II
Calculations/Layout/Design/Photometrics	Electrical Engineering	Engineer II
QA/QC	Architecture	Director
	M/P Engineering	Director
	Structural Engineering	Senior Engineer
Client Submittal	Architecture	Architect III
Responses to Comments - Update drawings in 90% submittal phase	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Presentation / Review Meeting - 1 hour	Architecture	Architect III
	M/P Engineering	Engineer II
90% Submittal / Final Design		
Activity	Discipline	Role
Design Phase Kickoff Meeting	Architecture	Architect III
	M/P Engineering	Director
Construction Document Drawings	Architecture	Drafter III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Construction Document Refinement	Architecture	Architect III
	M/P Engineering	Director
Engineering Coordination	Architecture	Architect III
Client Coordination - 2 hours	Architecture	Architect III
QA/QC	Architecture	Director
	M/P Engineering	Director
	Structural Engineering	Senior Engineer
Client Submittal - 90%, Final	Architecture	Architect III
Responses to Comments - 90%	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Presentation / Review Meeting - 1 hour	Architecture	Architect III
	M/P Engineering	Engineer II

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

Permitting & Bidding		
Activity	Discipline	Role
Due Diligence	Architecture	Architect III
Permit Application	Architecture	Architect III
Execution	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Permitting Coordination with Marine Consultant	Architecture	Architect III
Bid Support - 1 phase	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Pre-Bid Meeting	Architecture	Architect III
Bidding Tabulation	Architecture	Architect III
Bid Review with Client	Architecture	Architect III
Construction Administration HOURLY RATE SERVICES AS REQUIRED		
Activity	Discipline	Role
Preconstruction Meeting	Architecture	Architect III
RFIs	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Submittals + Shop Drawing Review	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Contractor Coordination	Architecture	Architect III
Construction Meeting Attendance	Architecture	Architect III
General Document Revisions	Architecture	Architect III
	M/P Engineering	Engineer II
	Electrical Engineering	Engineer II
	Structural Engineering	Engineer II
Site Visits	Architecture	Architect III
Payment Application Reviews	Architecture	Architect III
Change Order Analysis and Processing	Architecture	Architect III
Punch Walk / Punch List	Architecture	Architect III
Substantial Completion Certificate	Admin	Administration
Final Completion Certificate	Admin	Administration

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

	Project Closeout HOURLY RATE SERVICES AS REQUIRED	
Activity	Discipline	Role
Record Drawings	Architecture	Drafter III
Closeout Documentation Collection	Architecture	Architect III
O&M Manual Review	Architecture	Architect III
11 Month Walkthru / Warranty Review	Architecture	Architect III
	Structural Engineering	Engineer II
	Project Management	
Activity	Discipline	Role
Internal Project Management	Architecture	Senior Project Manager I
Consultant Management	Architecture	Senior Project Manager I
Scheduling	Architecture	Senior Project Manager I
Accounting - Project Manager	Architecture	Senior Project Manager I
Accounting - Support Team	Admin	Administration
PM Tool management	Architecture	Senior Project Manager I

Civil Engineering

Site plan/vehicle circulation review and coordination.

Sanitary Sewer Service plan/details.

Marina Specialist

Site assessment – Will need to confirm no corals or seagrasses in the footprint of the proposed construction. Depths may already be available but are typically necessary to demonstrate no adverse impacts to resources associated with navigation to open waters.

Planning – Create a site plan that addresses the City’s objective for commercial vessel mooring. This could be as simple as restoring the docks in the same footprint as existed prior to their demise. It may entail a more comprehensive planning of the site for other uses.

Permit Applications – Fill out various agency forms, project description, application drawings, etc. and secure signatures and filing fees.

Application Coordination – Pursue the various agencies through the application review process.

Construction – review shop drawings, respond to questions during construction, and provide (1) site visit.

APPENDIX B: DRAWING LIST

The following drawings are anticipated as part of the overall project effort:

DRAWING LIST BY discipline		# OF DRAWINGS
ARCHITECTURE		21
Sheet	Title	# of Sheets
G0.0.1	Cover Sheet	1
G0.0.2	Drawing Index and Project Information	1
G0.1.1	Accessibility Guidelines	1
G2.1.1	Life Safety Plan	1
AD2.1.1	Demolition Plan(s)	1
AD3.1.1	Demolition Exterior Elevations	1
AD3.2.1	Demolition Photos and Notes	1
A1.1.1	Architectural Site Plan	1
A1.2.1	Site Details - Dumpster Enclosure	1
A2.1.1	Floor Plans - Main Building and Bathroom Building	1
A2.2.1	Ceiling Plans - Main Building and Bathroom Building	1
A2.3.1	Roof Plan	1
A3.1.1	Exterior Elevations with Finish Schedule	1
A3.2.1	Building Sections at Rear Building Lean To and Trolley Cover	1
A4.1.1	Enlarged Floor Plans & Elevations	1
A5.1.1	Millwork Plan / Elevation / Details	1
A6.1.1	Schedules & Details - Doors and Windows with NOAs	1
A8.2.1	Exterior Details	1
A9.2.1	Interior Details	1
AS	Specifications	2
STRUCTURAL		4
Sheet	Title	# of Sheets
S0.1.1	General Notes	1
S2.1.1	Rear Slab and Lean To Framing Plan and Details	1
S2.1.2	West Side Deck and Covering	1
S3.2.1	Framing Sections and Details	1

MECHANICAL		5
Sheet	Title	# of Sheets
M0.1.1	Mechanical Cover Sheet & General Notes	1
M0.2.1	Mechanical Specifications	1
MD1.1.1	Mechanical Demolition Sheets	1
M2.1.1	Mechanical Floor Plan	1
M5.1.1	Mechanical Details & Schedule	1
PLUMBING		6
Sheet	Title	# of Sheets
P0.1.1	Plumbing Cover Sheet & General Notes	1
P0.2.1	Plumbing Specification	1
PD1.1.1	Plumbing Demolition Sheets	1
P2.1.1	Sanitary Floor Plan	1
P2.2.1	Domestic Water Floor Plan	1
P3.1.2	Sanitary / Vent Riser Diagram	1
ELECTRICAL		8
Sheet	Title	# of Sheets
E0.1.1	Electrical Cover Sheet & General Notes	1
E0.2.1	Electrical Specifications	1
ED1.1.1	Electrical Demolition Sheets	1
E1.1.1	Electrical Site Plan	1
E2.1.1	Electrical Power Plan(s)	1
E2.2.1	Electrical Lighting Floor Plan(s)	1
E3.1.1	One Line Diagram	1
E3.1.2	Panel Schedules	1
CIVIL		4
Sheet	Title	# of Sheets
C0.1.1	General Notes	1
C0.2.1	Specifications	1
C2.1.1	Utilities Plan	1
C5.1.1	Details	1

APPENDIX C: STIPULATIONS, EXCLUSIONS, AND ADDITIONAL SERVICES

Stipulations

- Upon signing of this Design Services Agreement it may be necessary and useful for the following documents to be completed depending upon applications required by local jurisdictions:
 - Signed and notarized Authorization Form
 - Warranty Deed showing current owner's name
 - Survey completed and certified within 12 months inclusive of site utilities
 - Elevation certificate showing flood designation from FEMA maps
 - Appraisal showing land value and structure value completed within 12 months
- Fees assume projects modeled in Revit are at a level of development (LOD) in the 100 to 300 range. Models developed beyond this LOD will be additional services.
- The 30% Schematic Design Documents shall consist of drawings and other documents including a site plan, preliminary building plans, elevations, and sections, and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. The Design Professional shall also review and prepare a written evaluation of the Client's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information provided by Client.
- The 60% Design Development Documents shall illustrate and describe the development of the approved 30% Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations (including interior elevations), typical construction details, and diagrammatic layouts of building systems to fix and describe the scope, relationships, form, size, appearance and character of the Project as to civil, architectural, interior design, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. During this phase a building and local code analysis, itemizing any potential implications on the Project will be defined along with a utility analysis for new construction projects.
- The 90% Construction Documents / 100% Final Design shall illustrate and describe the further development of the approved 60% Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Client and Design Professional acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Design Professional shall review if engaged to do so. During the development of the Construction Documents, the Design Professional shall assist the Client in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary, and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.
- Client shall provide written approval of the Design Professional's Schematic Design, Design Development, and Construction Document submissions to the Design Professional within a reasonable time from receipt of each submission. Client shall inform the Design Professional of sequence and timing of the solicitation of construction bids for the Project.
- Any revisions to scope of services, design criteria or changes requested which result in any redesign after 60% complete will be considered additional services. Written authorization will be required from the Client prior to proceeding with additional services.

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

- Base fee includes up to 26 hours for permitting. Additional time to be billed at an hourly rate based on Client approval.
- All submittal fees, application fees, permit fees, and impact fees to be provided by Client.
- ACOE / DEP permitting includes 24 hours of permit administration. Any time above this will be an additional service.
- Construction Administration services shall be provided on an as-needed hourly rate. The services listed in Appendix A are representational of traditional Design Professional services in the construction period.
- Construction Administration Phase – provide shop drawings review of contractor’s approved submittals for the limited purpose of checking for conformance with the information and quality given in the Contract Documents. Provide consultation to answer question, respond to inquiries and assist in resolving issues arising from the work. All contractors’ submittals, where applicable, are to be forwarded to the Architect in electronic format.
 - K2M Design shall review Submittals such as Shop Drawings, Coordination Drawings, Product Data, and Samples for conformity with design intent and conformity with the Contract Documents within 10 working days of receiving Submittals.
- K2M Design shall respond to the Contractor’s Request for Interpretation (“RFI”) within 5 working days of receiving the RFI for easier RFIs and up to 10 days for more complicated responses.
- The Construction Administration phase expires at the date of the issue of the certificate of occupancy and completion of punch list items. The work is expected to take 8 months depending on the complexity of the design.
- Special Inspection services are by Client. Requirements for such services shall be defined per the IBC.
- The existing roof is assumed to be removed as part of this Proposal. The existing building structure is assumed to be code compliant and capable of supporting the new roof, window openings, door openings, canopies, or the lean-to attachment (as applicable).
- Project includes façade work only with minor electrical scope for lighting and signage.
- All specifications will be shown on the drawings.
- The part of the marina that is within lands controlled by the Dept. of Transportation is presumed to not need a lease.
- City to provide depths of the marina to demonstrate no adverse impacts to resources associated with navigation to open waters.
- Civil engineering is limited to onsite utility infrastructure.

Exclusions

- Bidding Manual by the City
- Zoning/planning variances, design review hearings or development agreement services
- Civil Engineering design and grading plans including hardscape, accessible path, and trolley storage.
- Landscape design / architecture or irrigation system design
- Pylon, monument, or wayfinding sign design
- Commercial Kitchen design
- Fire Alarm or Fire Suppression systems
- No asbestos, mold, or other hazardous material abatement
- Design of IT, Security, A/V, or other technology systems is by Tenant or Clients

BUILDING RELATIONSHIPS BASED ON TRUST AND RESULTS.

- Cost Estimating
- Existing utilities are understood to be capable of supporting the new scope. Any modifications of the existing utility mains or entrance is excluded.
- Arc Flash Analysis
- Short Circuit Calculations

Additional Services

- Additional services are those which arise because of unforeseen circumstances during the design of a project and which, therefore, cannot be included in the basic services agreement. Such additional services, when requested in writing by Client, shall be performed at an hourly rate per the Design Professional rates or negotiated fixed fee.
- Providing services in connection with evaluating substitutions proposed by the contractor, and making subsequent revisions resulting therefrom, and deciding disputes between Owner and Contractor(s) are an additional price.
- Providing consulting concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work are an additional service.
- For phases not contemplated - Preparing documents for alternate, separate, phased, or sequential bids or providing service in connection with bidding, negotiation, or construction prior to the completion of the Construction Documents phase is an additional price.
- If renderings are required they shall be billed at the Design Professional's standard rate for renderings: \$3400 for 3D rendering and \$2400 for 2D rendering.
- If value engineering is performed, either by Design Professional or by a third party, any rework required to implement desirable changes will be compensated by a mutually agreeable amount that considers the value to Client and the time spent by Design Professional.

FURTHER, PURSUANT AND SUBJECT TO FLORIDA STATUTES, SECTION 558.0035, THE OWNER AGREES THAT ANY INDIVIDUAL PERSON EMPLOYED AS A DESIGN PROFESSIONAL BY DESIGN PROFESSIONAL OR AN AGENT OF DESIGN PROFESSIONAL SHALL NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF THIS CONTRACT. FURTHER, THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION AND/OR TERMINATION OF THIS AGREEMENT AND THE COMPLETION AND/OR TERMINATION OF THE SERVICES PROVIDED BY DESIGN PROFESSIONAL.