

RESOLUTION 19-112

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH M. GAY CONSTRUCTORS, INC. RELATED TO THE FRANK BROWN PARK LIGHTING PROJECT IN THE AMOUNT OF \$1,185,900.

BE IT RESOLVED that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and M. Gay Constructors, Inc., relating to the purchase and installation of equipment for the Frank Brown Park Lighting Project, in the amount of One Million, One Hundred Eighty-Five Thousand, Nine Hundred Dollars (\$1,185,900.00), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.


PASSED in regular session this 25th day of July, 2019.

CITY OF PANAMA CITY BEACH

By: _____


Mike Thomas, Mayor

ATTEST:


Mary Jan Bossert, City Clerk

PANAMA CITY BEACH – FRANK BROWN PARK
LIGHTING PROJECT
PROJECT NO. _____

SECTION 00050

AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20__
by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called
"OWNER") and M. Gay Constructors, Inc., doing business as a
corporation (an individual), or (a partnership), or (a corporation), having a business
address of P.O. Box 26249, Jacksonville, FL 32226 (hereinafter called "CONTRACTOR"), for the
performance of the Work (as that terms is defined below) in connection with the
construction of **Frank Brown Park Lighting Project**, to be located at **16200 Panama
City Beach Parkway Panama City Beach, Florida 32413**,
in accordance with the Drawings and Specifications prepared by The City of Panama City
Beach Parks and Recreation Department.

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

1. The CONTRACTOR shall furnish, at its sole expense, all supervision, labor,
equipment, tools, material, and supplies to properly and efficiently perform all
of the work required under the Contract Documents and shall be solely
responsible for the payment of all taxes, permits and license fees, labor
fringe benefits, insurance and bond premiums, and all other expenses and
costs required to complete such work in accordance with this Agreement
(collectively the "Work"). CONTRACTOR'S employees and personnel shall
be qualified and experienced to perform the portions of the Work to which
they have been assigned. In performing the Work hereunder,
CONTRACTOR shall be an independent contractor, maintaining control over

and having sole responsibility for CONTRACTOR'S employees and other personnel. Neither CONTRACTOR, nor any of CONTRACTOR'S sub-contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of OWNER.

2. The CONTRACTOR will commence the Work required by Contract per the Bid Documents.

Dates are as follows:

The Project may begin as follows:

1-South Complex Baseball/Softball Fields: November 18, 2019

2-Soccer Fields: Dec 16, 2019

3-Equipment may begin to be delivered to the staging areas beginning Nov 1, 2019. It is not the responsibility of the City to keep track of the equipment or to protect the equipment from damage. It is the responsibility of the Bidder and Shipping Companies to unload all equipment themselves. If the City is required to unload any equipment, the City will not be held liable for any damage from unloading equipment. No Exceptions!

Job Completion will be to complete the project by Saturday February 1, 2020 with liquidated damages of \$3,000.00 per day thereafter. *If project is not approved by IDA or Substitute Agency before the Deadline of August 23, 2019 there will be a \$3,000.00 per day liquidated damages penalty until lighting is approved per Bid Specs.*

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

3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$3,000 for each calendar day that expires after the Contract Time for Substantial Completion as more fully set forth in Section 15 of the General Conditions.
4. The CONTRACTOR agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum of

SPECIFICATIONS prepared or issued by

dated _____.

**ADDENDA [LIST ANY ADDENDA ISSUED PRIOR TO EXECUTION OF
THE AGREEMENT.]**

No. _____, dated _____, 20__

No. _____, dated _____, 20__

No. _____, dated _____, 20__

No. _____, dated _____, 20__

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

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

directed to the following address:

If to Owner:

City of Panama City Beach
110 South Arnold Road
Panama City Beach, FL 32413

ATTENTION: Mario Gisbert, City Manager
Fax No.: (850) 233-5108

If to Contractor:

ATTENTION: _____
Fax No.: _____

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

10. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement the sales tax savings program as more fully described in the Sales Tax Exemption Addendum. If required by OWNER, the Sales Tax Exemption Addendum shall be made a part of the Contract Documents, the form of which is set forth in Section 00808.
11. The failure of OWNER to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.
12. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature

AGREEMENT

00050-5

concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.

13. Should any provision of the Agreement be determined by a court with jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.
14. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term "including" is not limiting, and the terms "hereof", "herein", "hereunder", and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.
15. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be

16. CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, or ENGINEER may be responsible, in whole or in part, shall

relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This section shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may make a claim for its actual and direct delay damages accruing after said 90 calendar days as provided in Section 00805 Supplemental Conditions, Contract Claims and Changes. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

17. INSURANCE - BASIC COVERAGES REQUIRED NAMING THE CITY OF PANAMA CITY BEACH AS ADDITIONAL INSURED.

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

These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient

or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

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

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

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

exposures. Limits of coverage shall not be less than:

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

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

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

BUSINESS AUTOMOBILE LIABILITY COVERAGE

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

Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit Each Accident
------------------------------------	--

EXCESS OR UMBRELLA LIABILITY COVERAGE

CONTRACTOR shall purchase and maintain Excess Umbrella Liability Insurance or Excess Liability Insurance on a full occurrence form providing the same continuous coverages as required for the underlying Commercial General, Business Automobile and Employers' Liability Coverages with no gaps in continuity of coverages or limits with OWNER added by endorsement to the policy as an additional insured in the same manner as is required under the primary policies, and shall not be less than \$10,000,000, each occurrence and aggregate as required by OWNER.

ADDITIONAL INSURANCE

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

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

(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH,
FLORIDA

ATTEST:

BY:

City Clerk

NAME: _____
(Please type)

TITLE: _____

City Attorney (as to form only)

CONTRACTOR:

ATTEST:

BY: _____

NAME: _____
(Please Type)

NAME _____
(Please Type)

ADDRESS: _____

[END OF SECTION 00050]

**CITY OF PANAMA CITY BEACH
 BID TABULATION**

Bidder	Address	Information	Price
M Gay Constructors	PO Box 26249 Jacksonville, FL 32226		\$1,185,900.00
GAC	4116 N Hwy 231 PO Box 59462 Panama City, FL 32412		\$1,328,352.48
Techline Sports Lighting	1503 Storm Drive Austin, TX 78734	Non Responsive Bid	\$999,000.00

FRANK BROWN PARK LIGHTING PROJECT PROPOSAL FORM

TO: City of Panama City Beach, Florida

SUBMITTED: July 16, 2019.

The Undersigned, as Bidder, hereby declares that they have examined the proposal specifications and informed themselves fully in regard to all conditions pertaining to the equipment to be supplied.

The Bidder proposes and agrees, if this proposal is accepted, to contract with the **City of Panama City Beach** for the lump sum price listed, to furnish all labor, materials and supplies to install free and clear the **Frank Brown Park Lighting Project** in complete accord with the described and reasonably intended requirements of the Request for Proposals to the satisfaction of the City, with a definite understanding that no additional money will be allowed for any corrections or additions. Payment in full will be made to the Bidder within 30 days of delivery and completion of installation acceptable to the City. The Bidder further proposes and agrees to complete the **Frank Brown Park Lighting Project by February 1, 2020** with liquidated damages thereafter of \$3,000.00 per day.

Purchase will be made under terms and conditions specified by the City in its form of a Purchase Order. If a deposit is required, it must be specified below. Final payment, in readily available funds, will be made upon acceptance by the City of strictly conforming goods after delivery and install. Strict adherence to the design build and specifications issued by the City or subsequently accepted in writing by the City will be required.

ADDENDUM ACKNOWLEDGMENT: (Only if addendums have been provided). I, the undersigned bidder, hereby acknowledge receipt of the following addenda: Addendum No. Addendum No. .

SUMMARY DESCRIPTION AND LUMP SUM PRICE:

Note: ✓ 1. A Detailed Design Build Description of the products with pictures to be submitted with this Proposal.

✓ 2. A Specific Project Date Checklist is required with this Design Build Proposal.

✓ 3. A signed and sealed approval review per Bid Specs from IDA (International Dark-Sky Association) or (an Independent Electrical Engineer licensed in Florida with a LC) (Lighting Certified Credentials) is required to be submitted with the bid.

✓ 4. Confirmation letter per Bid Specs that the light poles will include a certified pole foundation design provided by a Florida Licensed Structural Engineer and that remote driver/fuse box system will be located no higher than 10' above grade. Also to include Per Part 4 D a Foundation Drawing.

✓ 5. Bidder must be a licensed General Contractor in the State of Florida. Please attach a copy of the General Contractor's License Number with bid.

✓ 6. A 10 year certified, signed and dated Warranty from per the Bid Specs will be attached with the Bid.

✓ 7. A Cashier's Check Bid Bond of 5% of the total project to be included with the Bid or a sealed, stamped and dated Bid Bond with a Power Attorney and all signatures (Exhibit D).

Lump Sum price for the Frank Brown Park Lighting Project: \$ 1,185,900.00

Specify terms of any deposit or write "none required": None Required

Name of SUPPLIER: M. Gay Constructors, Inc.

ADDRESS: PO Box 26249 CITY: Jacksonville STATE: FL ZIP: 32226

EMAIL ADDRESS: mgcbillh@gmail.com / mgcdanielle1@gmail.com PHONE: 904-714-4001

References: Please list 4 successful LED Athletic Field Lighting Projects from 2018 & 2019:

Name	Location/Agency	Address or Email	Phone Number
Laureate City Park Soccer	Orlando Utility Commission	Eddie O'Donnell eodonnell@ouc.com	407-234-2715
Twin Lakes Sports Complex	Sarasota County	Anthony Bell AMBELL@SCGOV.NET	941-999-0588
Fernandina Beach HS Field Lighting	Nassau County School Board	David Kramer kramerda@nassau.k12.fl.us	904-225-5343
Ormond Beach Sports Complex	City of Ormond Beach	Eric Silbermann esilbermann@amweigel.com	Office (386) 257-6691 Cell (386)795-3498

SIGNATURE – (Confirming all information above is correct) _____

Print Name: Michael Gay and Print Title President, M. Gay Constructors, Inc.

I agree to post a Payment Bond, Performance Bond and Insurance (Exhibit E, F & G) if awarded the job - Initial MG