

**AGREEMENT BETWEEN THE CITY OF FORT MYERS
AND
THE INGENUITY LAB**

THIS Agreement is entered into on the 1st day of May, 2019 ("Effective Date") between the City of Fort Myers, a municipal corporation of the State of Florida, and the City of Fort Myers Fire Department (hereinafter called "CITY") whose mailing address is 2200 Second Street, Fort Myers, FL 33901 and The Ingenuity Lab, (hereinafter called "Ingenuity"), whose mailing address is _____, Fort Myers, FL 339__.

WHEREAS, the CITY recognizes the need for continued training and development for current and future leaders; and

WHEREAS, the CITY and Ingenuity are mutually interested in promoting a culture of continuous improvement and learning; and

WHEREAS, in the interest of providing the best possible ongoing strategies for people and leader development, full cooperation between the CITY and Ingenuity is necessary; and

WHEREAS, it is in the best interest of the parties to outline the details of such cooperation.

NOW THEREFORE, in consideration of these promises, the CITY and Ingenuity do hereby agree to participate in an initiative to strengthen

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organizational culture, achieve leader and organizational development, and conduct strategic visioning.

A. TERM AND PAYMENT

1. **Term:** The term of this Agreement will be for seventeen (17) months, effective May 1, 2019 through September 30, 2020.
2. **Payment:** The City agrees to pay Ingenuity a total of \$85,000 for the services identified below. Said payments will be made in monthly installments of \$5,000, beginning in May, 2019 with the last payment concluding in September, 2020.
 - a. The City agrees to pay all undisputed billing charges in accordance with the Florida Local Government Prompt Payment Act, F.S. 218.70 et seq. The parties will promptly address and attempt to resolve any dispute regarding payment in accordance with a dispute resolution procedure established by the Customer pursuant to the Florida Local Government Prompt Payment Act.
3. **Non-Appropriation:** The parties acknowledge that appropriation of funds is a governmental function which the City cannot contractually commit itself in advance to perform and this Agreement does not constitute such commitment. The City's obligation to pay under this Agreement is contingent upon City's annual appropriation of funds for such purpose, and the non-appropriation of funding for such purpose

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in any fiscal year shall immediately relieve both parties of their respective obligations hereunder, as of the last day for which funds have been appropriated. The City shall endeavor, upon determining that sufficient funds will not be budgeted and appropriated in any fiscal year under this Agreement, to provide prompt written notice to Ingenuity of such event.

B. SCOPE OF SERVICES AND DELIVERABLES

1. **Services:** Ingenuity will assist the Fire Department in accordance with the Scope of Services, attached hereto as Exhibit A. Any services the City desires Ingenuity to perform that is not expressed in the Scope of Services, Exhibit A, must be negotiated as an amendment and addendum to this Agreement.
2. **Deliverables:** The City understands the services contain a strategic three-step process, including Discovery, Alignment and Implementation. The City will cooperate in providing to Ingenuity the information necessary to successfully conduct the three stages.
3. **Intellectual Property:** All materials shared by Ingenuity with the City and the Fire Department (e.g., seminars, workshops, curriculum, materials) is, and remains, the intellectual property of The Ingenuity Lab.

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4. **Early Termination:** Either party may terminate this Agreement with or without cause by providing the other party sixty (60) days written notice of the intent to terminate. All payments referenced in Section A(2) will cease upon the effective date of the early termination.

C. GENERAL PROVISIONS

1. **Compliance with Florida Public Records Act:** The parties acknowledge and agree that all provisions of the Florida Public Records Law, Chapter 119, are and shall be binding and enforced at all times with regard to all action and activities under this Agreement. Ingenuity recognizes that in contracting with the City, it has the burden of complying with the Florida Public Records Laws, Chapter 119, for any documents in its possession. Nothing in this Agreement shall prohibit or restrict or create any liability on the City for complying in good faith with the Florida Public Records Law, Chapter 119 of the Florida Statutes.

- a. To the extent that Ingenuity may meet the definition of a “contractor” as defined by Section 119.0701, Florida Statutes, it will:

- i. keep and maintain public records required by the City to perform the contracted services;

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- ii. upon request from the City's custodian of public records, 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 of the Florida Statutes or as otherwise provided by law;
- iii. 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 contractor does not transfer the records to the City;
- iv. upon completion of the contract, 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 service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from the public records disclosure requirements. If the contractor keeps and maintains public records upon

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completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the Information Technology Systems of the City.

IF INGENUITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO INGENUITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT GWEN CARLISLE, CITY CLERK AND THE CUSTODIAN OF PUBLIC RECORDS AT (239) 321-7040, GCARLISLE@CITYFTMYERS.COM, 2200 SECOND STREET, FORT MYERS, FLORIDA 33901.

2. **Insurance:** Ingenuity shall maintain insurance coverage compliant with the requirements set forth in this Agreement, together with any additional insurance required by applicable federal, state or local laws and regulations, continuously throughout the term of this Agreement or during any period work is performed relating to this Agreement. Ingenuity waives on behalf of itself and its insurers all rights against Client and its agents, officers, directors, and employees for recovery of

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damages to the extent these damages are covered by Ingenuity's insurance regardless of deductibles, if any, provided however any such claim is not due to an intentional act of Client.

Ingenuity shall carry i) Workers Compensation per applicable laws and Employers Liability insurance with a limit not less than \$500,000 each accident for bodily injury, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit for disease, ii) Commercial General Liability (CGL) insurance on an occurrence form with a limit of not less than \$2,000,000 each occurrence covering liability arising Ingenuity's products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract; and iii) Automobile Liability in the amount of \$1,000,000 combined single limit (including hired and non-owned liability).

The City of Fort Myers shall be named as an additional insured on all policies. Ingenuity shall provide, prior to the execution of this Agreement, a certificate of insurance evidencing all such required coverage. The certificate shall provide (i) 30 days' prior written notice of cancellation and/or any material change to such policy, and (ii) a renewal certificate 15 days prior to the renewal of any such policy.

3. **Indemnification of City:** Ingenuity expressly agrees to indemnify, hold harmless, and defend the City of Fort Myers, its officers,

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directors, agents, and employees (herein called the “indemnitees”) from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney’s fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Ingenuity, its subcontractors or persons employed or utilized by them in the performance of the Agreement. In case any action, suit or proceeding is brought against the City by reason of any occurrence referred to above, the indemnifying party upon request of the City, will at the indemnifying party’s expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by the indemnifying party, or its insurer(s) and reasonably acceptable to such the City. This indemnification provision shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Agreement.

The indemnification obligations under the Agreement shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Ingenuity under workers’ compensation acts, disability benefits acts, or P employee

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benefits acts, and shall extend to and include any actions brought by or in the name of any employee of Ingenuity or of any third party to whom Ingenuity may subcontract a part or all of the work. This indemnification shall continue beyond the date of completion of the work.

Both Parties recognize that the City, as a municipality in the State of Florida, is prohibited from entering into indemnification agreements. Subject to that prohibition, the Parties agree that Ingenuity shall not be responsible for damages resulting solely and exclusively from City's negligence. This sentence does not in any way limit the City's sovereign immunity under Florida Statutes Section 768.28.

4. **Governing Law:** This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Florida as they apply to a contract executed, delivered, and performed solely in such State. The parties hereby irrevocably consent to the exclusive jurisdiction and venue of the State or Federal courts in Lee County, in the State of Florida, for any and all claims and causes of action arising from or related to this Agreement.
5. **Attorneys' Fees and Costs:** In the event of a dispute arising under this Agreement, whether or not a lawsuit or other proceeding is filed, the prevailing party shall be entitled to recover its reasonable

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attorneys' fees and costs, including attorneys' fees and costs incurred in litigating entitlement to attorneys' fees and costs, as well as in determining or quantifying the amount of recoverable attorneys' fees and costs. The reasonable costs to which the prevailing party is entitled shall include costs that are taxable under any applicable statute, rule, or guideline, as well as non-taxable costs, including, but not limited to, costs of investigation, copying costs, electronic discovery costs, telephone charges, mailing and delivery charges, information technology support charges, consultant and expert witness fees, travel expenses, court reporter fees, and mediator fees, regardless of whether such costs are otherwise taxable.

6. **Assignment:** Neither Party may assign this agreement without the express prior written consent of the other party.
7. **Notices:** All notices required by law or by this Agreement to be given by one party to the other shall be in writing, and the same shall be delivered by hand or shall be mailed certified mail, return receipt requested, to the following addresses:

CITY: City of Fort Myers Fire Department
2033 Jackson Street
Fort Myers, FL 33901

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ADDITIONAL NOTICE TO: Chief Administrative Attorney and City Clerk
2200 Second Street
Fort Myers, FL, 33901

FMALL: Dave Fleming, Ph.D.,
The Ingenuity Lab
[Insert Address]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have read and executed this Agreement on the dates shown below to be effective the day and year first shown above.

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CITY OF FORT MYERS, FLORIDA

a Municipal Corporation

ATTEST:

By: _____
Randall P. Henderson, Jr., Mayor

Gwen Carlisle, City Clerk

Date: _____

By: _____
Saeed Kazemi, City Manager

Date: _____

APPROVED AS TO FORM:

Grant Williams Alley, City Attorney

Witness

Name: _____

Name: _____

The Ingenuity Lab

By: David Fleming
David Fleming, Ph.D.

04/26/19

Date: _____

CORPORATE SEAL



EXHIBIT A

Building Leader-Capacity and Succession at the Fort Myers Fire Department A Proposal for Leader and Strategic Development from The Ingenuity Lab

Scope of Work and Approach

The Ingenuity Lab was asked to design a 18-month proposal (scope of work) to assist the Department with three overarching imperatives:

1. Organizational culture reform (creating a culture of engagement, ingenuity, and proactivity)
2. Leader and organizational development (creating high-performing people/teams and smart processes)
3. Strategic visioning (reforming and mapping the organizational values and strategic plans for the future of the Department)

Time, Intention, and Margin

To execute tangible results within each imperative requires time, energy, trust, and collaboration (between *The Ingenuity Lab* the Fire Department). It also requires *leaders to invest in the process while they simultaneously execute their many daily duties*. The length of the process enables intention *and* margin. It allows participants to be sufficiently challenged to develop, but in a manner that is manageable with their full schedules.

The process then is not a series of “one off” trainings, but a change initiative strategically implemented over a longer period of time. This time frame increases the likelihood of, 1) sustaining participant engagement, 2) integrating important ideas and behaviors into the culture, and 3) ensuring the change initiatives have time to take hold in the organization.

The Ingenuity Lab's approach utilizes a flexible but strategic three step process.

1. Discovery: The discovery phase builds understanding and trust. Both *The Ingenuity Lab* and the Fire Department must come to understand each other's work and learn how to collaborate to achieve the three strategic imperatives. The discovery phase includes time for interviews, observations, and critical conversations. This enables *The Lab* and Department leaders to craft their joint work on the three imperatives. It also allows *The Lab* time learn how to best engage Department leaders and the current organizational culture. Though much discovery occurs in the early months of the work, it continues throughout and informs the work all along the way. This allows the work to adapt as needed.
2. Alignment: The alignment phase builds engagement and desire to collaborate. Alignment occurs when participants recognize the value of the three imperatives and embrace the work required to achieve them. This can only occur if there is *sufficient understanding of why the work, and the Lab's involvement, is vital to success*. Further, participants must appreciate how the work will enhance both personal and collective effectiveness. In short, ongoing alignment allows participants to own the process because they value it and *choose to engage it*.
3. Implementation: Throughout the work, *The Ingenuity Lab* will implement strategic content, tools, coaching, and learning experiences aimed at advancing the three imperatives. Implemented strategies are more effective because they will emerge from steps one and two.

3. Deliverables

1. Implementation of a leader development program/process. The *Leading Ingenuity Leader Program* will provide Department staff with the tools needed to shift the culture, create high performing teams, and grow leader capacity for the future of the Department and their own careers.
2. Access to The Lab's solution-making methodology and online app, *The Ingenuity Canvas*. The *Canvas* is a design tool that enables a simple but robust "solution oriented" approach to overcoming challenges, seizing opportunities, and planning high-stakes work.

3. Ongoing leadership coaching for command staff and high-potential employees. The focus of the coaching is capacity development (of the leaders). The goal of the coaching is behavioral change that enables better current and future performance and succession. This coaching is both structured (regular and scheduled) and real-time (initiated by participants as needs emerge).
4. The creation of a reformed set of organizational values and strategic plan. The emphasis is not only on the creation of the values/plan, but on organizational implementation (over the duration of the work). In other words, the reformation of the values and strategic plan is the first step. The real deliverable comes as *The Lab* assists Department leaders to align organizational behavior and action with the reformed values and plan.
5. Dr. Fleming serves as the Department's ongoing strategic guide and coach throughout the contract.