



**AMENDMENT TO AGREEMENT
FOR
CONTINUING PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES**

THIS IS AN AMENDED AGREEMENT ("Agreement"), dated this _____ day of _____
2021, by and between:

CITY OF OAKLAND PARK, a municipal corporation organized and existing under the laws of the State of Florida and whose address is 3650 NE 12 Avenue, Oakland Park, FL 33334 ("City"),

and

CRAVEN THOMPSON AND ASSOCIATES, INC., a corporation authorized to do business in the State of Florida, located at 3563 NW 53 Street, Fort Lauderdale, FL 33309, hereinafter "CONTRACTOR."

City and CONTRACTOR may each be referred to herein as "party" or collectively as "parties".

WHEREAS, on September 16, 2019, in response to the City's Request for Qualifications (RFQ) RFQ #052819 for Continuing Professional Architectural and Engineering Services, the City entered into an Agreement with CONTRACTOR to provide continuing professional services for miscellaneous projects, including landscape architecture, general/civil, water/wastewater engineering, and other services including land surveying, FDOT certified CEI/Non-FDOT certified CEI, project management, owners' representative and cost estimating services, for development of the projects/services described and listed under Paragraph 2 of the original agreement.

WHEREAS, on September 8, 2021, the City renewed its Agreement with CONTRACTOR for an additional two (2) years, subject to the terms and conditions of the RFQ, and accepted the firm's updated professional services rate schedule,

WHEREAS, the Parties seek to amend the Original Agreement to incorporate the following additional contract provisions required by Broward County's Office of Economic and Small Business Development (OESBD) on all projects funded with proceeds from the Broward County Penny for Transportation Program (transportation surtax):



**TRANSPORTATION SURTAX ADDENDUM FOR MUNICIPAL CONSULTANT CONTRACTS
(SURTAX PROJECT# _____ RFP/RLI # _____)**

This Transportation Surtax Addendum (“Addendum”) is made and entered by and between the [INSERT NAME OF MUNICIPALITY], a municipality of the State of Florida (“Municipality”), and [INSERT NAME OF CONSULTANT], a _____ [corporation/limited liability company] (“Consultant”) (each a “Party” and collectively referred to as the “Parties”).

GENERAL CONDITIONS

A. The solicitation, purchase order, or contract between Municipality and Consultant (all of which shall be referred to in this Addendum as the "Consulting Agreement") is funded in whole or in part by the transportation surtax levied pursuant to Section 31½-71, et seq., of the Broward County Code of Ordinances (the “County Surtax Ordinance”). The Consulting Agreement is therefore subject to the terms and conditions of County Surtax Ordinance, Section 212.055(1) of the Florida Statutes, and the terms and conditions of the interlocal funding agreement between Broward County, a political subdivision of the State of Florida (“County”) and Municipality to provide for funding of the Project (the “Funding Agreement”).

B. The purpose of this Addendum is to incorporate the terms and conditions required by the County Surtax Ordinance, Section 212.055(1), Florida Statutes, and the Funding Agreement, into the Parties’ Consulting Agreement.

C. [If applicable] Municipality has met the requirements of Section 287.055, Florida Statutes, the Consultants’ Competitive Negotiation Act, and has selected Consultant to perform the services hereunder.

D. All contract provisions required by the County Surtax Ordinance, Section 212.055(1) of the Florida Statute, and the Funding Agreement, as amended, are incorporated in this Addendum by reference, whether or not expressly set forth in the provisions below.

E. Consultant agrees to include the terms in this Addendum in each subcontract financed in whole or in part with transportation surtax funds levied pursuant to the County Surtax Ordinance.

F. In the event of any conflict between the terms contained in this Addendum and those contained in the Consulting Agreement, as amended, the terms of this Addendum shall prevail. Unless otherwise expressly provided by Florida law, any terms required by the County Surtax Ordinance and Section 212.055(1) of the Florida Statutes, as amended, shall control in the event of a conflict with any provisions contained in this Addendum.

G. The Parties agree to perform their respective obligations under the Consulting Agreement in accordance with the terms provided in this Addendum.

ARTICLE 1. DEFINITIONS

Whenever the following terms appear in this Addendum, the intent and meaning shall be interpreted as follows:

1.1 **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2 **Board** means the governing body of Municipality, its successors and assigns.

1.3 **Contract Administrator** means _____, or such other person designated by _____ in writing. The Contract Administrator is the representative of Municipality concerning the Project.

[DELETE ALL REFERENCES TO "CONTRACTOR" IF NOT APPLICABLE TO THIS CONTRACT]

1.4 **Contractor** means the person, firm, corporation, or other entity who enters into an agreement with Municipality to perform the construction work for the Project.

1.5 **County** means Broward County, a political subdivision of the State of Florida and representatives authorized by the Board of County Commissioners or the Broward County Charter to act on behalf of County.

1.6 **County Business Enterprise or CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.7 **Notice to Proceed** means a written authorization to proceed with the Project, phase, or task, issued by the Contract Administrator.

1.8 **Oversight Board** means the independent Transportation Surtax Oversight Board created pursuant to Section 31½-75 of the Broward County Code of Ordinances.

1.9 **Project** means _____.

1.10 **Purchasing Director** means Municipality's _____ or designee authorized to execute Work Authorization provided for in the Consulting Agreement.

1.11 **Services or Scope of Services** means the work set forth in the Scope of Services attached to the Consulting Agreement, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services as applicable for the Project, and any optional services procured under the Consulting Agreement.

1.12 **Small Business Enterprise or SBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.13 **Subconsultant** means an entity or individual providing services to Municipality through Consultant for all or any portion of the work under this Agreement. The term "Subconsultant" shall include all subcontractors.

ARTICLE 2. EXHIBITS

Exhibit A	Maximum Billing Rates
Exhibit A-1	Reimbursables for Direct Non-Salary Expenses
Exhibit B	Schedule of Subconsultants

ARTICLE 3. TIME FOR PERFORMANCE; DAMAGES

[USE THE FOLLOWING IF THE AGREEMENT HAS A SPECIFIC START AND END DATE]

3.1 The term of this Agreement shall be for the period beginning on _____ and ending _____ (____) years after that date. Consultant shall perform the Services within the time period specified in the Scope of Services (as defined in the Consulting Agreement). Time periods shall commence from the date of the applicable Notice to Proceed.

[USE THE FOLLOWING INSTEAD IF THE TIME FOR PERFORMANCE DOES NOT BEGIN ON A SPECIFIC DATE]

Consultant shall perform the Services within the time periods specified in the Scope of Services. Time periods shall commence from the date of the applicable Notice to Proceed.

3.2 Consultant must receive a Notice to Proceed from the Contract Administrator prior to commencement of Services and any phase of Services under this Agreement. Prior to granting approval for Consultant to proceed to any phase, the Contract Administrator may, at the Contract Administrator's sole option, require Consultant to submit the itemized deliverables and documents identified in the Scope of Services for the Contract Administrator's review.

3.3 If the Contract Administrator determines that Consultant is unable to timely complete all or any portion of the Services because of delays resulting from untimely review by Municipality or other governmental agencies having jurisdiction over the Project and such delays are not the fault of Consultant, or because of delays caused by factors outside the control of Consultant, Municipality shall grant a reasonable extension of time for completion of the Services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of Consultant to notify the Contract Administrator in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and whenever a delay has been caused by factors outside of Consultant's control, and to inform the Contract Administrator of all facts and details related to the delay. Consultant must provide such written notice to the Contract Administrator within three (3) business days after the occurrence of the event causing the delay.

3.4 If (a) Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, or (b) if Contractor is granted an extension of time beyond said substantial completion date and Consultant's Services are extended beyond the substantial completion date through no fault of Consultant, then Consultant shall be compensated in accordance with Article 5 for all Services rendered by Consultant beyond the substantial completion date.

3.5 Notwithstanding Section 3.4, if Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, and the

failure to substantially complete is caused in whole or in part by Consultant, then Consultant shall pay to Municipality its proportional share of any claim for damages to Contractor arising out of the delay. The provisions for the computation of delay costs, damages, or any other amounts, whether direct or indirect, in the agreement between the Contractor and Municipality are incorporated herein. This section shall not affect the indemnification rights or obligations of either Party otherwise set forth in this Agreement.

3.6 If Services are scheduled to end due to the expiration of this Agreement, at the request of the Contract Administrator, Consultant agrees to continue to provide Services for an extension period, not to exceed three months, upon the same terms and conditions as contained in this Agreement. Consultant shall be compensated for such Services at the rate in effect when the extension is invoked by Municipality. To exercise an extension authorized by this section, the Purchasing Director shall notify Consultant in writing prior to the end of the term of this Agreement.

ARTICLE 4. COMPENSATION AND METHOD OF PAYMENT

4.1 Reimbursable Expenses. For reimbursement of any travel costs, travel-related expenses, or other direct non-salary expenses directly attributable to this Project permitted under this Agreement ("Reimbursable Expenses"), Consultant agrees to adhere to Section 112.061, Florida Statutes, except to the extent otherwise stated herein. Municipality shall not be liable for any such expenses that have not been approved in writing in advance by the Contract Administrator. Reimbursable Subconsultant expenses must also comply with the requirements of this section.

4.2 Salary Costs. The term Salary Costs as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier that consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin. Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead rates shall be Consultant's most recent and actual rates determined in accordance with Federal Acquisition Regulation ("FAR") guidelines and audited by an independent Certified Public Accountant. For the purposes of this Agreement, the rates must be audited for fiscal periods of Consultant within eighteen (18) months preceding the execution date of this Agreement. These rates shall remain in effect for the term of this Agreement except as provided for in the Agreement.

4.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 4.2.

4.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit A are the Maximum Billing Rates, which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit A for Consultant or any Subconsultant, Consultant shall reimburse Municipality based upon the actual costs determined by the audit. Municipality may withhold the amount Consultant is required to reimburse Municipality from any payment due Consultant.

4.2.3 Unless otherwise noted, the Salary Costs stated above are based upon Consultant's "home office" rates. Should it become appropriate during the course of this Agreement that a "field office" rate be applied, then it is incumbent upon Consultant to submit a supplemental Exhibit A reflective of such rates for approval by Contract Administrator and, upon such Municipality's approval, invoice Municipality accordingly.

4.2.4 The total hours payable by Municipality for any "exempt" or "nonexempt" personnel shall not exceed forty (40) hours per employee in any week. If the work requires Consultant's or Subconsultant's personnel to work in excess of forty (40) hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced at no more than one and one-half of the employee's hourly rate and in a manner consistent with Consultant's or Subconsultant's applicable certified FAR audit and all other provisions of Section 4.2. If a "Safe Harbor" rate is elected for use by Consultant or Subconsultant, then the additional hours are payable at no more than the employee's regular rate.

4.2.5 Consultant and any of its Subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the FAR guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of this Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable, and shall not be subject to audit under this Agreement. All other provisions of Section 4.2 remain in place.

4.3 Method of Billing.

4.3.1 For Maximum Amount Not-To-Exceed Compensation: Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner for all Salary Costs and Reimbursable Expenses attributable to the Project. These billings shall identify the nature of the work performed, the total hours of work performed, and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursable Expenses by category and identify the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursable Expenses, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursable Expenses with accrual of the total and credits for portions paid previously. External Reimbursable Expenses and Subconsultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a project number or other identifier that clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. Internal expenses must be documented by appropriate Consultant's cost accounting forms with a summary of charges by category. When requested, Consultant shall provide backup for past and current invoices that records hours and Salary Costs by employee category,

Reimbursable Expenses by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

4.3.2 For Lump Sum Compensation: Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner. These billings shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished. Billings for each phase shall not exceed the amounts allocated to said phase. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, Consultant shall provide backup for past and current invoices that record hours, salary costs, and expense costs on a task basis, so that total hours and costs by task may be determined.

4.4 Fiscal Year. The continuation of this Agreement beyond the end of any Municipality fiscal year is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes.

ARTICLE 5. AUDIT RIGHTS AND RETENTION OF RECORDS

5.1. Consultant shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to inspection and subject to audit and reproduction during normal business hours. Audits and inspections pursuant to this section may be performed by any representative of Municipality and/or County (including and any outside representative engaged by either Municipality and/or County). Municipality and County may conduct audits or inspections at any time during the term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement (or longer if required by Applicable Law, Municipality, and/or County). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Consultant's employees, Subconsultants, vendors, or other labor.

5.2. Contract Records include any and all information, materials and data of every kind and character, including, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance under this Agreement, whether by Consultant or Subconsultants.

5.3. Municipality and Broward County shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County, Florida. Consultant hereby grants Municipality and County the right to conduct such audit or review at

Consultant's place of business, if deemed appropriate by Municipality or Broward County, with seventy-two (72) hours' advance notice. Consultant agrees to provide adequate and appropriate workspace. Consultant shall provide Municipality and County with reasonable access to Consultant's facilities, and Municipality and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

5.4. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Municipality's disallowance and recovery of any payment upon such entry.

5.5. If an audit or inspection in accordance with this section discloses overpricing or overcharges to Municipality of any nature by Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, Consultant shall pay the actual cost of the audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of the audit findings to Consultant.

5.6. Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations as stated in this Article 5.

ARTICLE 6. EQUAL EMPLOYMENT OPPORTUNITY AND CBE/SBE COMPLIANCE

6.1 No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Consultant shall include the foregoing or similar language in its contracts with any Subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

[DELETE SECTIONS 6.2 – 6.9 IF FEDERALLY OR STATE FUNDED, SEE §§ 255.0991 AND 255.0992, FLA. STAT.]

6.2 Consultant shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Agreement. Failure by Consultant to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit Municipality to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other Applicable Law, all such remedies being cumulative.

6.3 Consultant must meet or exceed the required CBE goal by utilizing the CBE firms listed in Exhibit B (or a CBE firm substituted for a listed firm, if permitted) for **ZERO** percent (**0%**) of total Services under this Agreement (the "Commitment") for the scope of the work and the percentage of work amounts identified on each Letter of Intent. Promptly upon execution of this Agreement by Municipality, Consultant shall enter into formal contracts with the CBE firms listed in Exhibit B and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

[USE FOLLOWING INSTEAD IF A CBE RESERVE PROJECT]

The Parties acknowledge that this procurement has been reserved solely for performance by CBE firms; therefore, the CBE goal is one hundred percent (100%) of the Services under this Agreement (the "Commitment"). Consultant is a CBE firm and agrees that it shall meet the Commitment by Consultant performing the Services without subcontracting, or by Consultant performing at least fifty percent (50%) of the Services and subcontracting the remainder to CBE firms listed in Exhibit B (or CBE firms substituted or approved by OESBD during the term of this Agreement).

[USE THE FOLLOWING INSTEAD IF A SBE RESERVE PROJECT AND MODIFY REMAINDER OF ARTICLE 6 ACCORDINGLY]

The Parties acknowledge that this procurement has been reserved solely for performance by an SBE firm; therefore, the SBE goal is one hundred percent (100%) of the Services under this Agreement (the "Commitment"). Consultant is an SBE firm and agrees that it will meet the Commitment by Consultant performing the Services without subcontracting, or by Consultant performing at least fifty percent (50%) of the Services and subcontracting the remainder to SBE firms listed in Exhibit B (including as may be substituted or approved in accordance with this Agreement).

6.4 *Each CBE firm utilized by Consultant to meet the CBE goal must be certified by OESBD. Consultant shall inform Municipality immediately when a CBE firm is not able to perform or if Consultant believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Consultant to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Consultant shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Scope of Services and no CBE firm is available to perform the modified Scope of Services; in which event Consultant shall notify OESBD, and OESBD may adjust the CBE goal by written notice to Consultant. Consultant shall not terminate a CBE firm for convenience without OESBD's prior written consent, which consent shall not be unreasonably withheld.*

6.5 *The Parties stipulate that if Consultant fails to meet the Commitment, the damages to Municipality arising from such failure are not readily ascertainable at the time of contracting. If Consultant fails to meet the Commitment and County determines, in the sole discretion of the OESBD Director, that Consultant failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Consultant shall pay Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Consultant failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount, excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by Municipality, such liquidated damages amount shall be either credited against any amounts due from Municipality, or must be paid to Municipality within thirty (30) days after written demand. These liquidated damages shall be Municipality's sole contractual remedy for Consultant's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81. Consultant acknowledges and agrees that the liquidated damages provided in this section are proportionate to an amount that might reasonably be expected to flow from a breach of the*

Commitment and are not a penalty. Any failure to meet the Commitment attributable solely to force majeure, changes to the scope of work by Municipality, or inability to substitute a CBE Subconsultant where the OESBD Program Director has determined that such inability is due to no fault of Consultant, shall not be deemed a failure by Consultant to meet the Commitment.

6.6 Consultant acknowledges that County may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Consultant and shall include a deadline for Consultant to notify Municipality in writing if Consultant concludes that the modification exceeds the authority under this section. Failure of Consultant to timely notify Municipality of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Consultant.

6.7 OESBD may modify the required participation of CBE firms in connection with any amendment, extension, modification, change order, or Work Authorization to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, change orders, or Work Authorizations, increases the initial Agreement price by ten percent (10%) or more. Consultant shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, change order, or Work Authorization, and shall report such efforts, along with evidence thereof, to OESBD.

6.8 No later than ten (10) business days after the end of the month, Consultant shall provide written monthly reports to the Contract Administrator and to OESBD (in the form and in the manner requested by OESBD) attesting to Consultant's compliance with the Commitment. In addition, Consultant shall allow Municipality and OESBD to engage in onsite reviews to monitor Consultant's progress in achieving and maintaining the Commitment. The Contract Administrator in conjunction with OESBD shall perform such review and monitoring.

The presence of a "pay when paid" provision in a Consultant's contract with a CBE firm shall not preclude Municipality or its representatives from inquiring into claims of nonpayment or exercising any right stated in the Consulting Agreement as amended herein.

ARTICLE 7. PUBLIC RECORDS

7.1 Public Records. To the extent Consultant is acting on behalf of Municipality as stated in Section 119.0701, Florida Statutes, Consultant shall:

7.1.1 Keep and maintain public records required by Municipality to perform the services under this Agreement;

7.1.2 Upon request from Municipality, provide Municipality with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

7.1.3 *Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to Municipality; and*

7.1.4 *Upon completion or termination of this Agreement, transfer to Municipality, at no cost, all public records in possession of Consultant or keep and maintain public records required by Municipality to perform the services. If Consultant transfers the records to Municipality, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt. If Consultant keeps and maintains the public records, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Municipality upon request in a format that is compatible with the information technology systems of Municipality.*

7.2 *A request for public records regarding this Agreement must be made directly to Municipality, who will be responsible for responding to any such public records requests. Consultant will provide any requested records to Municipality to enable Municipality to respond to the public records request.*

7.3 *Any material submitted to Municipality that Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Consultant must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 688.002, Florida Statutes, and stating the factual basis for same. If that a third party submits a request to Municipality for records designated by Consultant as Trade Secret Materials, Municipality shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Consultant. Consultant shall indemnify and defend Municipality and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.*

IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 630-4300, RENEES@OAKLANDPARKFL.GOV, 3650 NE 12 AVENUE, OAKLAND PARK, FLORIDA 33334.

ARTICLE 8. MISCELLANEOUS

8.1 *Indemnification of Municipality. Consultant shall indemnify and hold harmless Municipality and its current, past, and future officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys’ fees, to the extent caused*

by the negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Contract Administrator and Municipality's Attorney, any sums due Consultant under this Agreement may be retained by Municipality until all of Municipality's claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by Municipality.

8.2 Drug-Free Workplace. To the extent required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Consultant certifies that it has and will maintain a drug-free workplace program for the duration of the Agreement.

8.3 Truth-In-Negotiation Representation. Consultant's compensation under the Agreement is based upon its representations to Municipality, and Consultant certifies that the wage rates, factual unit costs, and other information supplied to substantiate Consultant's compensation, including, without limitation, in the negotiation of this Agreement, are accurate, complete, and current as of the date Consultant executes this Agreement. Consultant's compensation will be reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

8.4 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the Broward County Domestic Partnership Act, Section 16½-157, Broward County Code of Ordinances ("Act"), Consultant certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

8.5 Living Wage Requirement. To the extent Consultant is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Consultant agrees to and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Consultant shall ensure all of its Subconsultants that qualify as "covered employers" fully comply with the requirements of such ordinance.

8.6 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Addendum by reference. The attached Exhibits are incorporated into and made a part of the Consulting Agreement as amended herein.

8.7 Prior Agreements. The Agreement together with this Addendum represents the final and complete understanding of the Parties regarding the subject matter of the Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of the Agreement are contained in the Agreement and this Addendum.

8.8 Verification of Employment Eligibility. Consultant represents that Consultant and each Subconsultant have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired

employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Consultant violates this section, Municipality may immediately terminate this Agreement for cause and Consultant will be liable for all costs incurred by Municipality due to the termination.

WHEREAS, the Parties seek to further amend the Original Agreement to ensure compliance with amendments to Florida law by including the following provisions:

32.f Sovereign Immunity. The parties agree that the City is a political subdivision of the State of Florida and therefore is entitled to sovereign immunity. Nothing in this Agreement shall be construed to require the City to indemnify CONSULTANT, or insure CONSULTANT for its negligence or to assume any liability for CONSULTANT. Further, any provision in this Agreement that requires the City to indemnify, hold harmless or defend CONSULTANT from liability for any other reason shall not alter the City's waiver of sovereign immunity or extend the City's liability beyond the limits established in Section 768.28 of the Florida Statutes, as amended.

WHEREAS, the Parties agree that all remaining provisions of the Original Agreement shall remain in full force of effect.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

Section 1. The foregoing recitals are true and correct and are hereby incorporated into this Agreement.

Section 2. That the Original Agreement, as amended and executed by the parties, shall remain in full force and effect except as specifically amended herein.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: MUNICIPALITY, through its Board, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the _____ day of _____, 20____, and CONSULTANT, signing by and through its _____, duly authorized to execute same.

MUNICIPALITY

ATTEST:

By: _____

MAYOR

MUNICIPALITY'S CLERK

Print Name

_____ day of _____, 20____

I HEREBY CERTIFY that I have approved
this Agreement as to form and legal
sufficiency subject to execution by the parties:

Municipality's Attorney

CONSULTANT

[FOR INDIVIDUAL]

WITNESSES:

Signature

Print/Type Name

Signature

Print/Type Name

By _____

(Please Type Name)

___ day of _____, 20__.

[FOR CORPORATION]

ATTEST:

Secretary

(Typed Name of Secretary)

CORPORATE SEAL

(Typed Name of Consultant/Firm)

By _____
President/Vice President

(Typed Name and Title)

___ day of _____, 20__.

**Exhibit A
Maximum Billing Rates**

Project No: [Project Number]
 Project Title: [Project Title]
 Consultant/ [Name]
 Subconsultant Name:

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE (\$/HR)
[Insert staff titles]	\$0.00				\$0.00
	\$0.00				\$0.00
	\$0.00				\$0.00
	\$0.00				\$0.00
	\$0.00				\$0.00
	\$0.00				\$0.00
	\$0.00				\$0.00

Multiplier of X.XX is calculated as follows:

OVERHEAD= X.XX%
 FRINGE= X.XX%
 OPERATING MARGIN= X.XX%
 MULTIPLIER= (1 + OVERHEAD + FRINGE + ((1 + OVERHEAD + FRINGE) X OPERATING MARGIN)) / 1

[DELETE IF NOT APPLICABLE]

Notes:

Consultant has elected to use "Safe Harbor" combined fringe benefit and overhead rate of 110% in accordance with Section 5.2.5.

Consultant

Municipality

 Name/Title

 Contract Administrator

Date: _____

Date: _____

Exhibit A-1
Reimbursables for Direct Non-Salary Expenses

Reimbursable	Maximum Reimbursable
Total Maximum Reimbursables:	

Exhibit B
Schedule of Subconsultants

Project No:

Project Title:

Facility Name:

No.	Firm Name	Discipline
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		