



**REQUEST FOR QUALIFICATIONS**

**PROFESSIONAL ENGINEERING SERVICES**  
**FOR**  
**BROWARD COUNTY SURTAX PROJECT #OAKL-023**  
**MAST ARM TRAFFIC SIGNALS**  
**RFQ #011822**

**SUBMISSION DEADLINE: 2:30PM, January 18, 2022**

CITY OF OAKLAND PARK  
FINANCIAL SERVICES/PURCHASING DIVISION  
3650 NE 12 AVE  
OAKLAND PARK, FL. 33334  
PHONE: 954-630-4257  
EMAIL: [kerri.fisher@oaklandparkfl.gov](mailto:kerri.fisher@oaklandparkfl.gov)

## **INSTRUCTIONS TO RESPONDENTS**

1. **GENERAL:** The following instructions are given for guiding proposers in properly preparing their proposals.

For information concerning procedures for responding to this Request for Qualifications (RFQ), contact Kerri Fisher, at the phone number or email address listed on the title page of the document. Such contact is to be for clarification purposes only. Material changes, if any, to the technical specifications or bidding procedures will only be transmitted by written addendum.

Proposal documents are available for download via demandstar.com. Vendors who obtain specifications and plans from sources other than the City or DemandStar.com are cautioned that the package may be incomplete. All addendums, tabulations, and awards will be posted and disseminated by DemandStar.

2. **SCOPE OF WORK:** Pursuant to Section 287.055, Florida Statutes, the City of Oakland Park ("City") invites qualified architectural and engineering firms to submit Statements of Qualifications to provide architectural and/or engineering services for Mast Arm Traffic Signals in accordance with the detailed Scope of Work defined in Section 3 of this RFQ.

3. **ADDITIONAL INFORMATION, QUESTIONS, INTERPRETATIONS, INCONSISTENCIES AND ADDENDA:**

Requests for additional information or questions must be made in writing, to Kerri Anne Fisher, Purchasing Manager, via email at [kerri.fisher@oaklandparkfl.org](mailto:kerri.fisher@oaklandparkfl.org). Questions/requests must be submitted prior to the deadline for such as listed in the timeline of events section of the RFQ. Additional information will only be transmitted via a written addendum.

4. **DEVELOPMENT COSTS:** Neither the City nor its representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFQ. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFQ.

5. **INSURANCE REQUIREMENTS:** The proposer will be required to furnish evidence of the following insurance coverages by a licensed Florida Company that has at least a "BEST" rating of "A."

A. Without limiting any of the other obligations or liabilities of proposer, proposer will provide, pay for and maintain in force until all of its work to be performed under this contract has been completed and accepted by City (or for such duration as is otherwise specified after this), the insurance coverages set forth herein.

B. Workers compensation insurance to apply for all employees of the contractor, sub-contractors, and the contractor's architect and/or engineer meeting the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the

policy(s) must include: Employers' liability with a minimum limit of one hundred thousand dollars (\$100,000) each accident.

C. Comprehensive General Liability with minimum limits of one million dollars (\$1,000,000) per occurrence combined single limits for bodily injury liability and property damage liability;

D. Personal Injury Coverage with employee and contractual exclusions removed with minimum limits of coverage equal to those required for bodily injury liability and property damage liability;

E. Business automobile liability with minimum limits of five hundred thousand dollars (\$500,000) per occurrence combined single limits for bodily injury liability and property damage liability.

F. Professional Liability / errors and Omissions Coverage  
Combined single limit each occurrence \$1,000,000 general aggregate limit \$ 2,000,000

G. The City is to be expressly included as an "Additional Insured" in the name of "City of Oakland Park" with respect to liability arising out of operations performed by City by or for proposer; or acts or omissions of City concerning general supervision of such operation.

H. Notice of cancellation and/or restriction Policy(s) must be endorsed to give the City thirty (30) days notice of cancellation and/or restriction.

6. **PROOF OF INSURANCE COVERAGE:** The successful proposer will furnish to the City, Certificates of Insurance or endorsements evidencing the insurance coverage specified above within seven (7) days after notification of an award. The required Certificates of Insurance or endorsements will not only name the types of policies continued but will also refer specifically to this contract and will state that such insurance is as required by this contract.
7. **PROPOSER'S EXPERIENCE RECORD:** The City will have the right to investigate the financial condition, experience record, and equipment of each proposer and determine to its satisfaction the competency of each to undertake the project. The proposer will submit documentation concerned with the past performance and integrity of a contractor/developer. Accordingly, proposer should provide information as to any of the following: (a) bankruptcy, (b) mortgage foreclosures; (c) previous or pending litigation and (d) restrictions, restraints or impositions imposed by federal or state regulatory agencies such as Federal Housing Administration, Securities and Exchange Commission, etc., that apply to the proposer/contractor/developer.
8. **NON- APPROPRIATION OF FUNDS:** In the event no funds or insufficient funds are appropriated and budgeted or funding is otherwise unavailable in any fiscal period for payments due under the contract, then the City, upon written notice of such occurrence,

shall have the unqualified right to terminate the contract without any penalty or expense to the City.

9. **POSTPONEMENT OF DATE FOR SUBMITTING PROPOSALS:** The City reserves the right to extend the date for the receipt of proposals and will give ample notice of any such postponement to each prospective proposer.
10. **CONTRACT AWARD:** The City anticipates entering into a contract with the proposer(s) who submits the proposal judged by the City to be most advantageous.

The proposer understands that this RFQ does not constitute an offer or a contract with the CITY. A contract shall not be deemed to exist and is not binding until proposals are reviewed and accepted by appointed staff, the best proposal has been identified, negotiations with the Proposer have been authorized by the appropriate level of authority within the City, an agreement has been approved, and executed by parties and by the appropriate level of authority within the City. In the event the parties are unable to negotiate terms acceptable to the City, the City may determine to accept the offer of the second most responsive and responsible Proposer determined by the selection committee, or it may resolicit proposals. The City reserves the right to reject all proposals, to waive non-material, technical variances or infirmities in the proposal, to abandon the project or to solicit and re-advertise for other proposals. The City may in its discretion waive any informalities and irregularities contained in a proposal or in the manner of its submittal and award a contract thereafter.

11. **RIGHT TO WAIVE AND REJECT:** The City, in its absolute discretion, may reject any proposal of a proposer that has failed, in the opinion of the City, to complete or perform a City of Oakland Park contracted project in a timely fashion or has failed in any other way, in the opinion of the City, to perform a prior contract in a satisfactory manner, and has directed the City of Oakland Park Purchasing Manager to emphasize this condition to potential proposers.

There is no obligation on the part of the City to award the proposal to the lowest proposer, and the City reserves the right to award the proposal to proposer submitting a responsive proposal with a resulting negotiated agreement which is most advantageous and in the best interest of the City, and to reject any and all proposals or to waive any irregularity or technicality in proposals received. The City of Oakland Park shall be the sole judge of the proposal and the resulting negotiated agreement that is in its best interest and its decision shall be final.

The City of Oakland Park reserves the right to waive any informalities or reject any and all proposals, in whole or part, to utilize any applicable state contracts in lieu of or in addition to this proposal and to accept the proposal that in its judgment will best serve the interest of the City.

The City specifically reserves the right to reject any conditional proposal and will normally reject those which made it impossible to determine the true amount of the proposal. Each

item must be proposed separately, and no attempt is to be made to tie any item or items to any other item or items.

12. **DISQUALIFICATION OF PROPOSERS:** Any of the following reasons may be considered as sufficient for the disqualification of a proposer and the rejection of his proposal or proposals:

- A. More than one proposal for the same work from an individual, firm or corporation under the same or different name.
- B. Evidence that the proposer has a financial interest in the firm of another proposer for the same work.
- C. Evidence of collusion among proposers. Participants in such collusion will receive no recognition as proposers for any future work of the City until such participant shall have been reinstated as a qualified proposer.
- D. Uncompleted work which in the judgment of the City might hinder or prevent the prompt completion of additional work if awarded.
- E. Failure to pay or satisfactorily settle all bills due for labor and material on former contracts in force at the time of advertisement of proposals.
- F. Default under previous contract.

13. **NONDISCRIMINATION EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT** Contractor shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Contractor shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by this Agreement, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility.

Contractor's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 162), gender identity, gender expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

Contractor shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 162) in performing any services pursuant to this Agreement.

14. **DOMESTIC PARTNER BENEFITS REQUIREMENT:** Effective November 7, 2012, Ordinance 2012-28, requires City Contractors to provide equal benefits for domestic

partners. The Ordinance requires that all Contractors, with 25 or more employees contracting with the City in an amount over \$100,000, provide benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses and the children of spouses, with certain exceptions as provided by the Ordinance.

15. **PUBLIC RECORDS:** The City is a public agency subject to Chapter 119, Florida Statutes. The Proposer shall comply with Florida's Public Records Law. Specifically, the Proposer shall:
- A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
  - B. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in chapter 119, Florida Statutes, or as otherwise provided by law;
  - C. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
  - D. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the agency.

**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**

**Renee M. Shrout, CMC**  
**City Clerk**  
**City of Oakland Park**  
**3650 NE 12th Avenue**  
**Oakland Park, FL 33334**  
**954-630-4298**  
**[renees@oaklandparkfl.gov](mailto:renees@oaklandparkfl.gov)**

16. **POSTPONEMENT OF DATE FOR SUBMITTING PROPOSALS:** The City reserves the right to extend the date for the receipt of proposals and will give ample notice of any such postponement to each prospective Proposer.
17. **INDEMNIFICATION:** The Proposer will indemnify and save harmless the City and Broward County, its officers, agents and employees, from or because of any injuries or

damages received or sustained by any person or persons during or because of any operations connected with the design, planning, investigation or construction of this project; or, by or in consequence of any intentional act, negligence (excluding negligence of City), concerning the same; or by use of any improper materials, design, work, construction or by or due to any act or omission of the said Proposer or its subcontractor, agents, servants or employees. The Proposer agrees to indemnify and save harmless the City from all such claims and fees, and from any and all suits and actions of every name and description that may be brought against the City due to any claims, fees, royalties or costs for any invention, copyright, or patent, and from any and all suits and actions that may be brought against the City for the infringement of any and all patents and rights claimed by any person, firm or corporation.

The indemnification provided above will obligate the Proposer to defend, at its own expense, or to provide for such defense, at the City's option, any and all claims of liability and all suits and actions of every name and description that may be brought against the City that may result from the operations and activities under this contract whether the activities are performed by the Proposer, contractors, subcontractors or by anyone directly or indirectly employed by any of them.

18. **TAXES:** The Contractor will pay all applicable sales, consumer use and other similar taxes required by law. The Contractor is responsible for reviewing the pertinent State statutes involving the sales tax and complying with all requirements.
19. **DEFINITION:** All references to Proposer will include the Contractor and all references to the Contractor will include Proposer.
20. **TERMINATION FOR CAUSE:** Any misrepresentation by the Proposer of its ability to perform the work described in this RFP places the Proposer in default and shall be just cause for termination of the contract. In such case, the City may award the contract to the next lowest responsible Proposer who can demonstrate the ability to perform the work, for the remainder of the contract period, or may rebid as the City may decide. In the event of such default and termination, any completed services performed by the Proposer under the agreement shall, at the option of the City become the City's property and the Proposer shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Proposer, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of agreement by the Proposer, and the City may withhold any payments to the Proposer for the purposes of set-off until such time as the amount of damage due to the City from the Proposer can be determined.
21. **TERMINATION FOR CONVENIENCE:** The City may terminate the contract, in whole or in part at any time for any reason by giving 30 days prior written notice, when it is in the best interest of the City. If the contract is terminated by the City, as provided herein, the Proposer will be paid for the work completed as of the date of termination. Upon receipt of the notice of termination issued under this section, the Proposer shall discontinue all work, cease any deliveries, shipment or carriage of goods, and make available to the Project



Manager any and all reports, data, specifications, photos, estimates, summaries, and information as are required by the contract.

22. **SCRUTINIZED COMPANIES LIST:** In accordance with Florida Statue 287.135, as amended, principals or owners listed on the Scrutinized Companies that boycott Israel List, Scrutinized Companies with activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Syria or Cuba are prohibited from submitting a bid, proposal or response to a solicitation for goods or services in an amount equal to or greater than \$1 million.

By submitting a bid, proposal or response, the company, principals or owners certify that they are not listed on the Scrutinized Companies that boycott Israel List, Scrutinized Companies with activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Syria or Cuba.

23. **PROPOSAL SUBMISSION DEADLINE AND OPENING:** Sealed proposals will be received by the City Clerk's Office, City of Oakland Park, 3650 NE 12 Ave., Oakland Park, Florida until **2:30 PM, January 11, 2022**. The proposals will be opened and read aloud shortly thereafter. One (1) USB, one (1) original and three (3) copies of proposals must be presented in a sealed envelope and identified with the following information: **“Engineering / CEI Consultant Services RFQ#** The City of Oakland Park reserves the right to reject any or all proposals, to waive any informalities or irregularities in any proposals received, to re-advertise for proposals, to award only portions of the project, to award to multiple Proposers, or take any similar actions that may be deemed to be in the best interests of the City.

24. **REFERENCES:** As part of the proposal evaluation process, the City shall conduct an investigation of references. Proposer’s submission of a proposal constitutes acknowledgement of the process and consent to investigate. The City is the sole judge in determining Proposer’s qualifications.

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## **SECTION II**

### **INTRODUCTION/SCOPE OF SERVICES/SUBMITTAL**

#### **2.1 INTRODUCTION:**

Pursuant to Section 287.055, Florida Statutes, the City of Oakland Park (the "City") invites qualified architectural and engineering firms to submit Statements of Qualifications to provide architectural and/or engineering services to the City in response to this Request for Qualifications (the "RFQ").

Services are to be provided on Broward County Surtax Project OAKL-023 – Mast Arm Traffic Signals. These services include Engineering / CEI services.

The City selected firm(s) shall demonstrate specific experience and capabilities and must have personnel qualified through education and experience in the specified disciplines.

The qualifications and selection of consultant shall be in accordance with Florida Statutes Section 287.055.

Interested consulting firms or individuals must be qualified pursuant to Florida law. The selected consultants must be currently licensed to practice in the State of Florida, as required by law.

A firm may submit only as a prime.

#### **2.2 SCOPE OF SERVICES:**

This RFQ is requesting any individual, company, or team, submit their qualifications for Engineering Services for City project funded via Broward County Surtax. The City will then review all submittals and contract with those individuals, companies or teams, to the specific project. Services are to be provided on Broward County Surtax Project OAKL-023 Mast Arm Traffic Signals project and assignment as specified in Section 3, Scope of Work.

#### **2.3 CONTRACT:**

After selection of Consultant by the City, an Agreement will incorporate the major terms and conditions for Consultant's performance. The Agreement shall be in the form of a individual contract, as approved by the City Attorney for legal form and sufficiency, and shall include, but not be limited to, the following matters:

- A. The services to be provided by the Consultant pursuant to the Agreement shall be nonexclusive and nothing therein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City within the City's sole and absolute discretion.
- B. The Consultant shall warrant that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure a contract pursuant to this Invitation to Submit Qualifications. Also, that it has not paid or agreed to pay any person(s), company, corporation, individual, or firm, other than a bona

vide employee working solely for the Consultant any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of a contract pursuant to this RFQ.

- C. The Agreement will include provisions for termination for cause by either party and for the convenience of the City.
- D. The Consultant shall be required to warrant and represent that at all times during the term of the Agreement it shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the services.
- E. It is anticipated that the Agreement shall be a individual contract. All work of a specified nature to be performed by Consultant shall be outlined in the Agreement.
- F. The Agreement will provide for the fees for services, which Consultant shall charge the City and shall be scope specific.
- G. Consultant shall invoice the City for each project or assignment, as negotiated. Each invoice shall identify the project or assignment, detail the contract price, payments made to date, percentage of Invoices shall itemize hours, hourly wage, or other unit agreed upon as measurement of payment during negotiations, if requested. If hourly, invoices shall identify the name and title of personnel who performed the work
- H. An understanding and agreement, by and between the Consultant and the City, that the completion time will be as specified in approved work authorizations and that all work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof as specified in the Scope of Services.

#### **2.4 STATEMENT OF QUALIFICATIONS CONTENT:**

Consultants must display considerable relevant experience with Engineering and CEI type of work and should emphasize both the experience and capability of particular personnel who will actually perform the work.

In order to ensure a uniform review process and to obtain the maximum degree of comparability, it is required that the Statements of Qualifications be organized in the manner specified.

The following information and documents are required to be provided with Proposer's Statement of Qualifications. Failure to do so may deem your Statement of Qualifications non-responsive.

#### **TAB 1: Table of Contents**

The table of contents should outline in sequential order the major areas of the Statement of Qualifications, including enclosures. All pages must be consecutively numbered and correspond to the Table of Contents.

**TAB 2: Letter of Interest**

Provide a Letter of Interest indicating your firm's commitment to the project. Letter of interest to include which area(s) the firm is interested in being considered.

**TAB 3: Qualifications of the Firm**

Indicate the firm's number of years of experience in providing Engineering / Architect and or professional services. Indicate Business structure (Corp., Partnership, etc.) with proof; Firm should be established as a legal entity in the State of Florida; Company address, phone number, E-Mail address, web site, contact person(s), etc.; Relative size of the firm, including management, technical and support staff; Licenses and any other pertinent information shall be submitted.

**TAB 4: Project Team/Manager's Experience**

Proposers must list the members of the project team per discipline. Provide a list of the personnel to be used on each project and their qualifications. A brief resume including education, experience, licenses and any other pertinent information shall be included for each team member, for each project, to be assigned to each project. Provide any other documentation that demonstrates their ability to satisfy all of the minimum qualification requirements.

**TAB 5: Approach to Handling of Potential Projects**

Describe your proposed approach to the project(s) that may be assigned to your firm. As part of the project approach, the firm shall propose a scheduling methodology (time line) for effectively managing and executing the work in the optimum time. Also provide information on your firm's current workload and how the potential project(s) will fit into your workload. Describe available facilities, technological capabilities and other available resources you offer for the potential project(s).

Provide in concise narrative form, your understanding of the City's needs, goals and objectives as they relate to the project, and overall approach to accomplishing the project. Gove and overview on your proposed vision, ideas and methodology.

**TAB 6: References**

Information should include:

- Client Name, address, phone number.
- Description of work.
- Year the project was completed.
- Total of fees paid to firm.
- Total cost of the construction, estimated and actual.

**TAB 7: Attached Forms**

- Proposal Certification Form
- Sworn Statement regarding Public Entities Crimes,
- Non- Collusion Form, Domestic Partner Certification Form,

- Scrutinized Companies Certification Form,
- E-verify Certification Form

## **2.5 SUBMISSION OF STATEMENT OF QUALIFICATIONS:**

- A. Incurred Expenses - The City is not responsible for any expenses which Proposers may incur preparing and submitting their qualifications called for in this RFQ.
- B. Interviews - The City reserves the right to conduct personal interviews or require presentations prior to selection. The City will not be liable for any costs incurred by the Proposer in connection with such interviews/presentations (i.e. travel, accommodations, etc.).
- C. Request for Modification: The City reserves the right to request that the Proposer modify his/her Statement of Qualifications to more fully meet the needs of the City.
- D. Submittal Acknowledgment - By submitting a Statement of Qualifications, the Proposer certifies that he or she has fully read and understands the RFQ method and has full knowledge of the scope, nature, and quality of work to be performed.
- E. Request for additional information from Proposer - The proposer shall furnish such additional information as the City may reasonably require. This includes information which indicates financial resources as well as ability to provide the services. The City reserves the right to make investigations of the qualifications of the Proposer as it deems appropriate.
- F. Statements of Qualifications Binding - All Statements of qualifications submitted shall be binding for three hundred sixty-five (365) calendar days following opening.
- G. Economy of Preparation - Statements of Qualifications should be prepared simply and economically, providing a straightforward, concise description of the Proposer's ability to fulfill the requirements of the Statement of Qualifications.

## **2.6 COUNTY BUSINESS ENTERPRISES REQUIREMENT:**

**Goal Participation:** This solicitation includes the following Broward County certified County Business Enterprises (CBE) goal: 30% CBE Goal.

Vendors/firms must follow the instructions included in the **Office of Economic and Small Business Development Requirements** section and submit all required forms and information as instructed.

A. On September 25, 2018 (Item No. 69), the Board of County Commissioners of Broward County, Florida, (County Commission) adopted a thirty percent (30%) County Business Enterprise Program (CBE) participation goal for projects funded with proceeds from the transportation surtax. The project that is the subject of this solicitation will be funded with proceeds from the transportation surtax. Therefore, the Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances, as amended (the "Business

Opportunity Act” or “CBE Program”), is applicable to this solicitation and the contract that will result from this solicitation. All vendors/firms responding to this solicitation are required to utilize CBE firms to perform the assigned participation goal for this contract.

B. The Broward County Office of Economic and Small Business Development (OESBD) has established the CBE participation goal for this project based up on the proposed scope of services/work for the project. Potential alternate/additional scopes of services/work, optional services and allowances were not considered by OESBD when the CBE participation goal for this project was established. If the Municipality subsequently chooses to authorize any alternate/additional scopes of services/work, optional services and/or allowances, that are determined by OESBD and the Contract Administrator to be funded with proceeds from the transportation surtax, OESBD may apply the established CBE participation goal to the alternate/additional services/work, optional services, and/or allowances. In such an instance, the Municipality will issue a written notice to the successful vendor/firm that the CBE participation goal will also apply to the alternate/additional services/work and/or allowances. The selected vendor/firm shall submit all required forms pertaining to its compliance with the CBE participation goal, as applicable. Failure by vendor/firm to submit the required forms regarding CBE participation may result in the rejection of vendor’s/firm’s solicitation submittal.

C. CBE Program Requirements: Compliance with CBE participation goal requirements is a matter of responsibility (or the Municipality’s equivalent); vendors/firms should submit all required forms and information with its solicitation submittal. If the required forms and information are not provided with the vendor’s/firm’s solicitation submittal, then vendor/firm must supply the required forms and information no later than three (3) business days after receipt of a request from OESBD. Vendor/firm may be deemed non-responsible (or the Municipality’s equivalent) fo failure to fully comply with CBE Program Requirements within these stated timeframes.

1. Vendor/firm should include in its solicitation submittal a Letter of Intent Between Bidder/Offeror and County Business Enterprise (CBE) Subcontractor/Supplier for each CBE firm the Vendor intends to use to achieve the assigned CBE participation goal. The form is available at the following link: <https://www.broward.org/EconDev/SmallBusiness/Documents/SurtaxProjectsServicesIntent.pdf>.
2. If vendor/firm is unable to attain the CBE participation goal, vendor/firm should include in its solicitation submittal an Application for Evaluation of Good Faith Efforts and all required supporting information. The form is available at the following link: <https://www.broward.org/EconDev/SmallBusiness/Documents/GoodFaithEffortsEvaluation.pdf>.
3. OESBD maintains an online directory of CBE firms. The online directory is available for use by vendors/firms at the following link: <https://www.broward.org/EconDev/DoingBusiness/Pages/CertifiedFirmDirectories.aspx>.

- D. For detailed information regarding the CBE Program contact the OESBD at (954) 357-6400 or visit the website at:  
<https://www.broward.org/EconDev/Pages/localcertificationprograms.aspx>.
- E. If awarded the contract, vendor/firm agrees to and shall comply with all applicable requirements of the Business Opportunity Act and the CBE Program in the award and administration of the contract including, but not limited to, the following:
1. Vendor/firm may not 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 contract.
  2. All entities that seek to conduct business with the Municipality, including vendor/firm or any Prime Contractors, Subcontractors, and Bidders, shall conduct such business activities in a fair and reasonable manner, free from fraud, coercion, collusion, intimidation, or bad faith. Failure to do so may result in the cancellation of this solicitation, cessation of contract negotiations, revocation of CBE certification, and suspension or debarment from future contracts.
  3. If vendor/firm fails to meet or make Good Faith Efforts (as defined in the Business Opportunity Act) to meet the CBE participation commitment (the "Commitment"), then Vendor shall pay the Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Vendor 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.
  4. Vendor/firm shall comply with all applicable requirements of the Business Opportunity Act in the award of the contract. Failure by vendor/firm to carry out any of these requirements shall constitute a material breach of the contract, which shall permit the Municipality to terminate the contract or to exercise any other remedy provided under the contract or other applicable laws, with all such remedies being cumulative.
  5. Vendor/firm shall pay its CBE subcontractors and suppliers, within fifteen (15) days following receipt of payment from the Municipality, for all completed subcontracted work and supplies. If vendor/firm withholds an amount from CBE subcontractors or suppliers as retainage, such retainage shall be released and paid within fifteen (15) days following receipt of payment of retained amounts from the Municipality.
  6. Vendor/firm understands that the Municipality and County will monitor vendor's/firm's compliance with the CBE Program requirements. Vendor/firm must provide the Municipality with a Monthly Utilization Report (MUR) by the 10th of each month to confirm its compliance with the Commitment agreed to in the contract; MURs can be submitted to the Municipality at [andre@oaklandparkfl.gov](mailto:andre@oaklandparkfl.gov) and online through the Broward County's iContractsCentral application, at the following webpage: <https://www.broward.org/Purchasing/Pages/icontractscentral.aspx>. Timely submission of the MUR every month throughout the term of the contract, including amendment and extension terms, is a condition precedent to the Municipality's payment of vendor/firm

under the contract.

## **2.7 EVALUATION COMMITTEE AND PROCEDURES FOR REVIEW:**

- A. An Evaluation Committee (the “Committee”) shall be established by the City to review and evaluate all Statements of Qualifications in response to this RFQ. The Committee shall conduct a preliminary evaluation of all qualifications on the basis of the information provided and other evaluation criteria as set forth in this RFQ or as reasonably determined by the Committee.
- B. The Committee will first review each Statement of Qualifications for compliance with the minimum qualifications and mandatory requirements of the RFQ. Failure to comply with any mandatory requirements may disqualify a Proposer.
- C. The City shall conduct discussions with and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project and ability to furnish the required services. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission of proposals and prior to award of a contract. In conducting discussions, there shall be no disclosure of any information derived from Statements of Qualifications by competing Proposers except as may be required by the Florida Public Records Law, Chapter 119, Florida Statutes.
- D. The City reserves the right to reject any and all Statements of Qualifications, to waive minor irregularities in the Statement of Qualifications and to make awards in the best interest of the City.
- E. Any award made shall be subject to execution of an individual contract in a form and substance which is approved by the City Attorney.

## **2.8 EVALUATION OF STATEMENTS OF QUALIFICATIONS:**

Evaluation Committee will review all submitted qualification ed under each of disciplines identified in Exhibit A.

Firms selected will negotiate a contract for project specific services.

Award shall be made to the responsible Proposer(s) whose Statement of Qualifications is determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth below:



<b>CRITERIA</b>	<b>PERCENTAGE</b>
<b>Qualifications of firm:</b>	
To include years of experience, licenses, insurance, etc.	<b>20</b>
<b>Qualification of Project Team:</b>	
To include personnel used for the project, project manager,	<b>30</b>
<b>Approach to the Handling of Potential Projects</b>	<b>30</b>
<b>Previous Similar Projects / References</b>	<b>15</b>
<b>**Minority Business Enterprise</b>	<b><u>5</u></b>
<b>TOTAL</b>	<b>100 %</b>

\*\* - A Minority Business Enterprise is a small minority – women- and Florida veteran – business enterprises certified by the Florida Office of Supplier Diversity (FOSD). The evaluation points will be awarded to prime consultants who provide evidence of a current FOSD certification at time of response submittal.

The City reserves the right to reject any or all Statements of Qualifications, to waive any irregularities or informalities in any Statement of Qualifications or in the RFQ procedures, to accept or reject any item or combinations of items and to make awards in the best interests of the City. The award will be to the firm(s) whose Statement of Qualifications complies with all material requirements set forth in this RFQ and whose Statement of Qualifications, in the opinion of the City, is the best, taking into consideration all aspects of the Proposer's response

**2.9 REQUEST FOR QUALIFICATIONS TIMELINE:** The anticipated timeline for this RFQ as follows. All dates are tentative and subject to change.

<b>Item</b>	<b>Date</b>
Release RFQ	Thursday, December 16, 2021
Last Date for Receipt of Questions of a Material Nature	Thursday, December 30, 2021
Addendum issued, if necessary	Tuesday, January 6, 2022
<b>SUBMITTALS DUE (Prior to 2:30PM EST)</b>	<b>Tuesday, January 18, 2022</b>
Commission Consideration	Wednesday, February 16, 2022

[END]

### **SECTION III SCOPE OF WORK**

#### **3.1 SCOPE**

The City is requesting the Consultant provide professional services for Mast Arm Signal design services at twenty (20) intersection locations. The following services shall be included the Scope of Work:

- A. Topographical Survey
- B. Sub-surface Utility Exploration (SUE) Geotechnical Investigation Signalization Plans
- C. Pedestrian signal Upgrades
- D. Intersection LED Lighting Mast Arm Structures design MOT Temporary signalization  
MOT Temporary Lighting

#### **3.2 COORDINATION/PERMITTING EFFORTS**

- A. Utilities Coordination., FPL coordination, FAA coordination (since FXE is close by), Railroad Coordination (1 location NE 56th /Dixie Hwy),
- B. Broward County coordination for signal maintenance and Interconnect impacts. Signalization Plans review (all intersections) and approval by the County - Broward County Permit.
- C. FDOT Permit submittal- Review and approval of Signals (listed below) within FDOT Right of Way,
  - i. Along Oakland Park Blvd (SR 816) at: 1) Somerset Dr., 2) NW 27th Ave., 3) NE 16th Ave.
  - ii. Along Powerline Rd (SR 845) at City of Oakland Park Fire Station 20 (Mid-Block Signal)
  - iii. Along Dixie Hwy (SR 811) at: 1) NE 56th St., 2) 1000 NE 51st St. (Mid-Block Signal), 3) NE 45th St. (Floranada Rd.), 4) NE 33rd St.

#### **3.3 OPTIONAL SERVICES - NOT INCLUDED IN SCOPE. CAN BE ADDED TO SCOPE IF AUTHORIZED**

- A. ADA upgrades to existing pedestrian ramps could be pedestrian signal placements, detector warning pads, etc.
- B. Signing-Pavement Markings such as lane lines, stop bars, special emphasis crosswalks, illuminated LED markers, etc.
- C. Signal Timings use existing timings and Signal Operating Plan (SOP)
- D. Peak hour data collection efforts for determining signal timings
- E. Signal Warrants Study at unsignalized intersections
- F. Signal Interconnect and ITS - Intersection Capacity Improvements turn lane extensions, turn lane additions, curb return improvements, bike lane additions, Sidewalk reconstruction outside of Mast Arm installation areas, etc.

- G. Drainage Design
- H. Public involvement.
- I. Post-design services (RFIs, shop drawings, etc.).

### **3.4 APPLICABLE DESIGN STANDARDS AND SPECIFICATIONS**

The services performed by the Consultant shall follow all applicable Federal, State, and County laws, policies, regulations, standards, manuals, and guidelines including but not limited to the Americans with Disabilities Act (ADA), the Florida Department of Transportation Standard Plans and Specifications for Road and Bridge Construction, Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Commonly known as the Florida Greenbook), the Broward County Minimum Standards, FHWA Manual on Uniform Traffic Control Devices.

Software and Delivery Methods: AutoCAD software will be utilized. Reports and Design Plans will be delivered in electronic format (3 submittals 60%, 90%, and 100%-Sign-seal) unless otherwise requested.

[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

### **Proposal Certification**

The undersigned hereby declares that I have carefully examined the RFQ and any other documents accompanying is made a part of this RFQ:

I hereby propose to furnish the services specified in this RFQ. I agree that my Statement of Qualifications will remain firm for a period of 365 days in order to allow the City adequate time to evaluate the Statement of Qualifications.

I certify that all information contained in this Statement of Qualifications is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this Statement of Qualifications on behalf of the firm.

---

Authorized Signature

---

Printed Name & Title

---

Company Name

---

Company Address

---

City, State, Zip Code

---

Date

---

Phone Number

---

Email Address

NON-COLLUSION AFFIDAVIT

By submission of this affidavit, the Proposer certifies that this price is made independently and free from collusion. Proposer shall disclose below, to the best of its knowledge, any City of Oakland Park officer or employee, or any spouse, son, daughter, stepson, stepdaughter, or parent of any such officer or employee, who is an officer or director of, or has a material interest in, the Proposer’s business who is in a position to influence this procurement. Any City of Oakland Park officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if he or she directly or indirectly owns more than five percent (5%) of the total assets or capital stock of any business entity, or if he or she otherwise stands to personally gain if the contract is awarded to this vendor.

Failure of a vendor to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the City of Oakland Park Code of Ordinances.

<u>NAME</u>	<u>RELATIONSHIP</u>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

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Signature

Sworn to and subscribed before me in the state and county first mentioned above on this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(affix seal)

---

Notary Public

---

My commission expires

**SWORN STATEMENT UNDER SECTION 287.133(3)(A),  
FLORIDA STATUTES, ON THE PUBLIC ENTITY CRIMES**

(To be signed in the presence of a notary public or other officer authorized to administer oaths.)

STATE OF \_\_\_\_\_ COUNTY \_\_\_\_\_

Before me, the undersigned authority, personally appeared, who, being by me first duly sworn, made the following statement:

Name of Proposer \_\_\_\_\_

Business address \_\_\_\_\_

I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any such agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

I understand that “convicted” or “conviction” is defined by the statute to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

I understand that “affiliate” is defined by the statute to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.

**Please mark the appropriate paragraph below:**

\_\_\_\_\_ Neither the proposer, contractor, nor any officer, director, executive, partner, shareholder, employee member or agent who is active in the management of the proposer or contractor nor any affiliate of the proposer or contractor has been convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ There has been a conviction of a public entity crime by the proposer or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the proposer or contractor who is active in the management of the proposer or contractor or an affiliate of the proposer or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted vendor list. The name of the convicted person or affiliate is \_\_\_\_\_. A copy of the order of the Division of Administrative Hearings is attached to this statement

\_\_\_\_\_  
Proposer's Signature

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

(affix seal)

\_\_\_\_\_  
Notary Public Signature



**DOMESTIC PARTNERSHIP CERTIFICATION FORM**

THIS FORM **MUST** BE COMPLETED AND SUBMITTED AT TIME OF SUBMITTAL  
FOR PROPOSER TO BE DEEMED RESPONSIVE

The Proposer, by virtue of the signature below, certifies that it is aware of the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances, "Requirement for city contractors to provide equal benefits to domestic partners", and certifies the following:

**Please check only one below**

- ☐ 1. The Proposer currently complies with the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances and provides benefits to domestic partners of its employees and the partners' dependents on the same basis as it provides benefits to employees' spouses and the spouses' dependents
- ☐ 2. The Proposer will comply with the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances at time of contract award and provide benefits to domestic partners of its employees and the partners' dependents on the same basis as it provides benefits to employees' spouses and the spouses' dependents
- ☐ 3. The Proposer will not comply with the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances at time of award
- ☐ 4. The Proposer does not need to comply with the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances at time of award because the following exemption applies:

**Please check only one below**

- ☐ The Proposer's price bid for the initial contract term is \$100,000 or less
- ☐ The Proposer employs less than twenty-five (25) employees
- ☐ The Proposer does not provide benefits to employees' spouses or spouse's dependents
- ☐ The Proposer is a religious organization, association, society, or non-profit charitable or educational institution
- ☐ The Proposer is a government entity
- ☐ The Proposer cannot comply with the requirements of Section 2-197.1 of the City of Oakland Park's Code of Ordinances because it would violate the laws, rules or regulations of federal or state law or would violate or be inconsistent with the terms or conditions of a grant or contract with the United States or State of Florida. Indicate the law, statute or regulation \_\_\_\_\_. (Attach explanation of its applicability)

**DOMESTIC PARTNERSHIP CERTIFICATION FORM (continued)**

I, \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_  
(Name) (Title) (Proposer)

Hereby attest that I have the authority to sign this notarized certification and certify that the above-referenced information is true, complete and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_

by \_\_\_\_\_, to me personally known \_\_\_\_ or produced

Identification \_\_\_\_ type of identification produced: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

My commission expires: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Print name of Notary Public

**CERTIFICATION PURSUANT TO SCRUTINIZED COMPANIES,  
FLORIDA STATUTE § 287.135**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_.

Print Name and Title Company Name

certify that \_\_\_\_\_ does not:

Company Name

1. Participate in a boycott of Israel; and
2. Is not on the Scrutinized Companies that Boycott Israel List; and
3. Is not on the Scrutinized Companies with Activities in Sudan List; and
4. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
5. Has not engaged in business operations in Syria.

Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute § 287.135.

Section 287.135, Florida Statutes, prohibits the City from: 1) Contracting with companies for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel; and 2) Contracting with companies, for goods or services over \$1,000,000.00 that are on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, or are engaged in business operations in Syria.

As the person authorized to sign on behalf of the Contractor, I hereby certify that the company identified above in the section entitled “Contractor Name” does not participate in any boycott of Israel, is not listed on the Scrutinized Companies that Boycott Israel List, is not listed on either the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List, and is not engaged in business operations in Syria. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the company to civil penalties, attorney’s fees, and/or costs. I further understand that any contract with the City for goods or services may be terminated at the option of the City if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

**SIGNATURE**

PRINT NAME &amp; TITLE

**Must be executed and returned with attached proposal to be considered.**

**E-VERIFY FORM**

Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including sub-vendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Oakland Park; and

Should vendor become successful Contractor awarded for the above-named project, by entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination.

Company Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AGREEMENT BETWEEN CITY OF OAKLAND PARK**  
**AND \_\_\_\_\_ FOR CONSULTANT SERVICES FOR**  
**\_\_\_\_\_**  
**(RFP/RLI # \_\_\_\_\_)**

This Agreement ("Agreement") is made and entered by and between City of Oakland Park of \_\_\_\_\_, Florida, a political subdivision of the State of Florida ("Municipality"), and \_\_\_\_\_, a \_\_\_\_\_ corporation ("Consultant") (each a "Party" and collectively referred to as the "Parties").

**RECITALS**

A. **[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.

B. \_\_\_\_\_

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1. DEFINITIONS**

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 **Project** means the project described in Exhibit A.

1.9 **Purchasing Director** means Municipality's [REDACTED] or designee authorized to execute Work Authorization provided for in Section 6.3.

1.10 **Services** means the work set forth in Exhibit A, Scope of Services, 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 this Agreement.

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

1.12 **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

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Maximum Billing Rates</b>
<b>Exhibit B-1</b>	<b>Reimbursables for Direct Non-Salary Expenses</b>
<b>Exhibit C</b>	<b>Minimum Insurance Requirements</b>
<b>Exhibit D</b>	<b>Work Authorization Form</b>
<b>Exhibit E</b>	<b>Schedule of Subconsultants</b>
<b>Exhibit [ ]</b>	<b>CBE Subconsultant Schedule and Letters of Intent</b>

## ARTICLE 3. SCOPE OF SERVICES

3.1 Consultant shall provide all Services as set forth in Exhibit A, including all necessary, incidental, and related activities required for full and complete performance of this Agreement (the "Scope of Services").

3.2 This Agreement does not delineate every detail and minor work task required to be performed by Consultant to complete the Project. If Consultant determines that work should be performed to complete the Project and, in Consultant's opinion, that work is outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, Consultant shall notify the Contract Administrator in writing in a timely manner before proceeding with the work. If Consultant proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to the Contract Administrator does not

constitute authorization or approval by Municipality to Consultant to perform the work. Any such work that would entail additional compensation to Consultant by Municipality, or additional time for performance, shall require an amendment to this Agreement pursuant to Section 6.1 or a Work Authorization pursuant to Section 6.2. Unless there is an executed amendment or Work Authorization or a dispute as set forth in Section 6.4, any work performed by Consultant outside the originally anticipated level of effort without prior written Municipality approval shall be at no additional cost to Municipality.

3.3 Exhibit A identifies the initial services related to the Project, and additional negotiations may be required for other phases or additional services. Municipality and Consultant may negotiate additional services, compensation, time of performance, and other related matters, including for other phases of the Project. Notwithstanding the foregoing, Municipality shall have the right to terminate negotiations at any time at no cost to Municipality and procure services for other Project phases from any other source.

3.4 Municipality shall assist Consultant by placing at Consultant's disposal all information Municipality has available pertinent to the Project, including previous reports and any other data relative to the Project. Municipality shall arrange for access to, and make all provisions for, Consultant to enter upon public and private property as required for Consultant to perform its Services. Municipality shall review any itemized deliverables and documents required to be submitted by Consultant and respond in writing with any comments within the time set forth in Exhibit A. Municipality shall give prompt written notice to Consultant whenever Municipality observes or otherwise becomes aware of any material defect in the work of Contractor or Subconsultants, or other material development that affects the scope or timing of Consultant's Services.

#### **ARTICLE 4. TIME FOR PERFORMANCE; DAMAGES**

4.1 **[USE THE FOLLOWING IF THE CONTRACT HAS A SPECIFIC START AND END DATE]**

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 periods specified in Exhibit A. 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 Exhibit A. Time periods shall commence from the date of the applicable Notice to Proceed.

4.2 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 Exhibit A for the Contract Administrator's review.



4.3 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.

4.4 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.

4.5 Notwithstanding Section 4.4, 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.

**[DELETE IF NOT APPLICABLE]**

4.6 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 5. COMPENSATION AND METHOD OF PAYMENT**

5.1 Amount and Method of Compensation. The amounts set forth in this Article 5 are the total compensation payable to Consultant and constitute a limitation upon Municipality's obligation to compensate Consultant for Services under this Agreement, but do not constitute a limitation of any sort upon Consultant's obligation to perform all Services required under this Agreement.

5.1.1 Maximum Amount Not-To-Exceed Compensation. For Basic Services identified in Exhibit A as payable on a “Maximum Amount Not-To-Exceed” basis, compensation to Consultant shall be based upon the Salary Costs as described in Section 5.2 up to a maximum not-to-exceed amount of \$\_\_\_\_\_.

5.1.2 Lump Sum Compensation. For Basic Services identified in Exhibit A as payable on a “Lump Sum” basis, compensation to Consultant shall be not more than a total lump sum of \$\_\_\_\_\_.

5.1.3 Optional Services. Municipality may procure Optional Services up to a maximum not-to-exceed amount of \$\_\_\_\_\_ pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by Municipality.

5.1.4 Reimbursable Expenses. Municipality will reimburse authorized Reimbursable Expenses as defined in Section 5.3 up to a maximum not-to-exceed amount of \$\_\_\_\_\_. Unused amounts of those monies shall be retained by Municipality.

5.1.5 Salary Costs. The maximum billing rates (“Maximum Billing Rates”) payable by Municipality for each of Consultant’s employee categories are shown on Exhibit B and are further described in Section 5.2.

5.1.6 Subconsultant Fees. Consultant shall bill Municipality for Subconsultant fees using the employee categories for Salary Costs on Exhibit B as defined in Section 5.2 and Reimbursable Expenses defined in Section 5.3. Consultant shall bill Subconsultant fees with no mark-up and within any applicable maximum not to exceed amount.

5.1.7 Phased Amounts. Payments for Basic Services shall be paid out pursuant to the Project phasing specified in Exhibit A and shall not exceed the amount set forth below for the applicable phase. The invoiced fee amount for each phase shall be subject to retainage as set forth in Section 5.5.

Project Phase	Fee %	Phase Amount
Predesign Services/Programming Phase	____%	\$_____
Phase I: Schematic Design	____%	\$_____
Phase II: Design Development	____%	\$_____
Phase III: Construction Documents	____%	\$_____
Phase IV: GMP Negotiations	____%	\$_____
Phase V: Administration of the Construction Contract	____%	\$_____
Phase VI: Warranty Administration and Post-Occupancy Services	____%	\$_____
<b>Total Basic Services Fee</b>	<b>100%</b>	<b>\$_____</b>

5.2 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.

5.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 5.2.

5.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit B 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 B 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.

5.2.3 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 B reflective of such rates for approval by Contract Administrator and, upon such Municipality's approval, invoice Municipality accordingly.

5.2.4 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 5.2. 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.

5.2.5 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 5.2 remain in place.

5.3 Reimbursable Expenses. For reimbursement of any travel costs, travel-related expenses, or other direct nonsalary expenses directly attributable to this Project permitted under this Agreement, 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.

5.4 Method of Billing.

5.4.1 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.

5.4.2 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.

5.5 Method of Payment.

5.5.1 Municipality shall pay Consultant within thirty (30) days after receipt of Consultant's proper invoice, as defined by the Local Government Prompt Payment Act, minus any applicable retainage or other deductions permitted by this Agreement.

5.5.2 Unless otherwise provided in this section, retainage in the amount of ten percent (10%) of each invoice shall be retained by Municipality until satisfactory completion of the applicable phase. When the Services to be performed on all phases of the Project are fifty percent (50%) complete, upon written request by Consultant and written approval by the Contract Administrator that the Project is progressing in a satisfactory manner, the Contract Administrator, in the Contract Administrator's sole discretion, may authorize the reduction of retainage to five percent (5%) of each invoice for subsequent payments. No amount shall be withheld from payments for Reimbursable Expenses or for Services performed during the construction phase, if applicable.

5.5.3 Upon Consultant's completion of each phase to the satisfaction of the Contract Administrator, Municipality shall remit to Consultant any amounts withheld as retainage for that phase. Final payment for the Project must be approved by the Purchasing Director.

5.5.4 Payment will be made to Consultant at the following address:

[REDACTED]

5.6 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 Title XI, Chapter 129, Florida Statutes.

5.7 Consultant must pay Subconsultants and suppliers providing Services under this Agreement within fifteen (15) days after receipt of payment from Municipality for such subcontracted work or supplies. If Consultant withholds an amount as retainage from a Subconsultant or supplier, Consultant shall release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts from Municipality. The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until Consultant demonstrates timely payments of sums due to all Subconsultants and suppliers. Consultant shall include requirements substantially similar to those set forth in this section in its contracts with Subconsultants and suppliers.

5.8 Withholding by Municipality. Notwithstanding any provision of this Agreement to the contrary, Municipality may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Consultant's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by Municipality.

**[DELETE IF NOT APPLICABLE]**

5.9 Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Consultant is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Consultant shall provide Municipality a copy of Consultant's current Form W-8ECI prior to issuance of any invoice or payment under this Agreement. If Consultant fails to timely provide a completed, current Form W-8ECI, Municipality will withhold all backup withholding taxes from the amounts due Consultant, remit such sums to the IRS, and pay Consultant only the remainder. Municipality makes no representation regarding the tax treatment of amounts due to Consultant, and Consultant releases and holds Municipality harmless from any claims or damages in any way relating to or arising from any tax withholding by Municipality pursuant to this section.

**ARTICLE 6. OPTIONAL AND ADDITIONAL SERVICES;  
CHANGES IN SCOPE OF SERVICES**

6.1 Municipality or Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Unless otherwise expressly permitted herein, such changes must be made in accordance with the provisions of the Municipality's procurement code and policies and must be contained in a written amendment.

6.2 If any goods or services under this Agreement, or the quantity thereof, are identified as optional ("Optional Services"), Municipality may select the type, amount, and timing of such goods or services pursuant to a work authorization ("Work Authorization") in substantially the form attached as [Exhibit D](#) executed by Consultant and Municipality pursuant to this section. No such selection, when combined with those goods or services required under this Agreement, may result in a payment obligation exceeding the applicable maximum amount stated in Article 5. A Work Authorization for Optional Services shall specify the method of compensation applicable to that Work Authorization and the required completion date for those additional services.

6.3 Notwithstanding anything to the contrary in this Agreement, Work Authorizations (and amendments thereto) for Optional Services shall be executed on behalf of Municipality as follows: (a) the Contract Administrator may execute Work Authorizations for which the total cost to Municipality in the aggregate is less than \$50,000.00; (b) the Purchasing Director may execute Work Authorizations for which the total cost to Municipality in the aggregate is within the Purchasing Director's delegated authority; and (c) any Work Authorization above the Purchasing Director's delegated authority requires express approval by the Board. Consultant shall not commence work on any Work Authorization until after receipt of a purchase order and issuance of a Notice to Proceed by the Contract Administrator.

6.4 If a dispute between the Contract Administrator and Consultant arises over whether any work requested by Municipality is within the scope of contracted Services and such dispute cannot be resolved by the Contract Administrator and Consultant, such dispute shall be promptly presented to the Municipality Manager or his or her designee for resolution, whose decision shall

be in writing and shall be final and binding on the Parties. During the pendency of any dispute, Consultant shall promptly perform the disputed work.

## **ARTICLE 7. REPRESENTATIONS AND WARRANTIES**

7.1 Representation of Authority. Consultant represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Consultant, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Consultant has with any third party or violates Applicable Law. Consultant further represents and warrants that execution of this Agreement is within Consultant's legal powers, and each individual executing this Agreement on behalf of Consultant is duly authorized by all necessary and appropriate action to do so on behalf of Consultant and does so with full legal authority.

7.2 Claims Against Consultant. Consultant represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental, or other board or official, pending or, to the knowledge of Consultant, threatened against or affecting Consultant, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Consultant to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Consultant or on the ability of Consultant to conduct its business as presently conducted or as proposed or contemplated to be conducted.

7.3 Solicitation Representations. Consultant represents and warrants that all statements and representations made in Consultant's proposal, bid, or other supporting documents submitted to Municipality in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Consultant executes this Agreement, unless otherwise expressly disclosed in writing by Consultant.

7.4 Contingency Fee. Consultant represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If this Agreement is subject to Section 287.055, Florida Statutes, the Parties agree and stipulate that the statutory language stated in Section 287.055(6)(a) is deemed included and fully incorporated herein.

7.5 Truth-In-Negotiation Representation. Consultant's compensation under this 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.



7.6 Public Entity Crime Act. Consultant represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Consultant further represents that there has been no determination that it committed a “public entity crime” as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a “public entity crime” regardless of the amount of money involved or whether Consultant has been placed on the convicted vendor list.

7.7 Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Consultant represents that it has not been placed on the “discriminatory vendor list” as provided in Section 287.134, Florida Statutes, and that it is not a “scrutinized company” pursuant to Sections 215.473 or 215.4725, Florida Statutes. Consultant represents and certifies that it is not, and for the duration of the Agreement will not be, ineligible to contract with Municipality on any of the grounds stated in Section 287.135, Florida Statutes. Consultant represents that it is, and for the duration of this Agreement will remain, in compliance with Section 286.101, Florida Statutes.

7.8 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 Contractor violates this section, Municipality may immediately terminate this Agreement for cause and Contractor will be liable for all costs incurred by Municipality due to the termination.

**DELETE DOMESTIC PARTNERSHIP IF FEDERALLY FUNDED**

7.9 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.

7.10 Warranty of Performance. Consultant represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all required and optional Services under this Agreement, and that each person and entity that will provide Services is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Services. Consultant represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.11 Prohibited Telecommunications Equipment. Consultant represents and certifies that it and its Subconsultants do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR

§§ 52.204-24 through 52.204-26. Consultant represents and certifies that Consultant and its Subconsultants shall not provide or use such covered telecommunications equipment, system, or services for the duration of this Agreement.

7.12 Breach of Representations. Consultant acknowledges that Municipality is materially relying on the representations, warranties, and certifications of Consultant stated in this article, and Municipality shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Consultant; (c) set off from any amounts due Consultant the full amount of any damage incurred; and (d) debarment of Consultant.

## **ARTICLE 8. TERMINATION**

8.1 Termination. This Agreement or any Work Authorization issued under this Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by Municipality, which termination date shall be not less than thirty (30) days after the date of such written notice. If this Agreement or any Work Authorization was approved by Board action, termination for cause by Municipality of the Agreement or Work Authorization, as applicable, must be by action of the Board or such other officer of Municipality designated by the Board; in all other instances termination for cause may be effected by the Municipality's representative expressly authorized under this Agreement (including any successor) who executed the Agreement or the Work Authorization, as applicable, on behalf of Municipality. This Agreement may also be terminated by the Municipality Manager upon such notice as the Municipality Manager deems appropriate under the circumstances if the Municipality Manager determines that termination is necessary to protect the public health, safety, or welfare. If Municipality erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause was provided and Consultant shall be eligible for the compensation provided in Section 8.4 as its sole remedy.

8.2 This Agreement or any Work Authorization may be terminated for cause by Municipality for reasons including, but not limited to, any of the following:

8.2.1 Consultant's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or Work Authorization, or repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices;

8.2.2 By the Contract Administrator for any fraud, misrepresentation, or material misstatement by Consultant in the award or performance of this Agreement or that

violates any applicable requirement of Section 1-81, Broward County Code of Ordinances;  
or

8.2.3 By the Contract Administrator upon the disqualification of Consultant as a CBE or SBE if Consultant's status as a CBE or SBE was a factor in the award of this Agreement and such status was misrepresented by Consultant, or upon the disqualification of one or more of Consultant's CBE or SBE participants by County's Director of the Office of Economic and Small Business Development (OESBD) if any such participant's status as a CBE or SBE firm was a factor in the award of this Agreement and such status was misrepresented by Consultant during the procurement or the performance of this Agreement.

8.3 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the Municipality Manager to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

8.4 If this Agreement or a Work Authorization issued under this Agreement is terminated for convenience, Consultant shall be paid for any Services properly performed under this Agreement or Work Authorization through the termination date specified in the written notice of termination, subject to any right of Municipality to retain any sums otherwise due and payable. Consultant acknowledges that it has received good, valuable, and sufficient consideration for Municipality's right to terminate this Agreement for convenience in the form of Municipality's obligation to provide advance notice to Consultant of such termination in accordance with Section 8.1.

8.5 In addition to any termination rights stated in this Agreement, Municipality shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

## **ARTICLE 9. INSURANCE**

9.1 For the duration of the Agreement, Consultant shall, at its sole expense, maintain the minimum insurance coverages stated in [Exhibit C](#) in accordance with the terms and conditions of this article. Consultant shall maintain insurance coverage against claims relating to any act or omission by Consultant, its agents, representatives, employees, or Subconsultants in connection with this Agreement. Municipality reserves the right at any time to review and adjust the limits and types of coverage required under this article.

9.2 Consultant shall ensure that Municipality "[Insert name of Municipality], [address of Municipality]" and "Broward County, 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301" are both listed and endorsed as additional insureds as stated in Exhibit C on all policies required under this article.

9.3 On or before the date this Agreement is fully executed or at least fifteen (15) days prior to commencement of Services, Consultant shall provide Municipality with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance

coverage required in this article. If and to the extent requested by Municipality, Consultant shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after Municipality's request.

9.4 Consultant shall ensure that all insurance coverages required by this article shall remain in full force and effect without any lapse in coverage for the duration of this Agreement and until all performance required by Consultant has been completed, as determined by Contract Administrator. Consultant or its insurer shall provide notice to Municipality any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide Municipality with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

9.5 All required insurance policies must be issued by insurers: (1) assigned an AM Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by Municipality's Risk Management Division.

9.6 If Consultant maintains broader coverage or higher limits than the insurance requirements stated in [Exhibit C](#), Municipality shall be entitled to all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any Municipality insurance, self-insurance or otherwise. All insurance held by Municipality, as well as Municipality's self-insurance, shall be in excess of and shall not contribute to the required insurance provided by Consultant.

9.7 Consultant shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in [Exhibit C](#) and submit to Municipality for approval at least fifteen (15) days prior to the date this Agreement is fully executed or commencement of Services. Consultant shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against Municipality. Municipality may, at any time, require Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Consultant agrees that any deductible or self-insured retention may be satisfied by either the named insured or Municipality, if so elected by Municipality, and Consultant agrees to obtain same in endorsements to the required policies.

9.8 Unless prohibited by the applicable policy, Consultant waives any right to subrogation that any of Consultant's insurer may acquire against Municipality and agrees to obtain same in an endorsement of Consultant's insurance policies required under this article including any excess or umbrella policies.

9.9 Consultant shall require that each Subconsultant maintains insurance coverage that adequately covers the Services provided by that Subconsultant on substantially the same insurance terms and conditions required of Consultant under this article. Consultant shall ensure

that all such Subconsultants comply with these requirements and that Municipality and “Broward County” are both named as additional insureds under the Subconsultants’ applicable insurance policies. Consultant shall not permit any Subconsultant to provide Services unless and until all applicable requirements of this article are satisfied.

9.10 If Consultant or any Subconsultant fails to maintain the insurance required by this Agreement, Municipality may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Consultant. If requested by Municipality, Consultant shall provide, within one (1) business day, evidence of each Subconsultant’s compliance with this section.

9.11 If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the date this Agreement is fully executed; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in [Exhibit C](#); and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the date this Agreement is fully executed, Consultant must obtain and maintain “extended reporting” coverage that applies after termination or expiration of the Agreement for at least the duration stated in [Exhibit C](#).

#### **ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE**

10.1 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 10.2 – 10.9 IF FEDERALLY OR STATE FUNDED, SEE §§ 255.0991 AND 255.0992, FLA. STAT.]**

10.2 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.

10.3 Consultant must meet or exceed the required 30% CBE goal by utilizing the CBE firms listed in [Exhibit \\_\\_](#) (or a CBE firm substituted for a listed firm, if permitted) for [30](#) percent ([30](#)%) of total Services (the “Commitment”) for the scope of 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 \\_\\_](#) and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

10.4 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.

10.5 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.

10.6 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.

10.7 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.

10.8 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 the OESBD Director 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.

10.9 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 Section 5.7.

## **ARTICLE 11. MISCELLANEOUS**

11.1 Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Consultant to manage and supervise the performance of this Agreement. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Municipality's codes or policies, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement provided that such instructions and determinations do not change the Scope of Services. The Contract Administrator may designate one or more of Municipality's employees with authority pertaining to day-to-day Project management or activities. Consultant shall notify Contract Administrator in writing of Consultant's representative(s) to whom matters involving the Project shall be addressed.

11.2 Rights in Documents and Work. Any and all documents, reports, studies, photographs, surveys, drawings, maps, models, photographs, specifications, materials, data, or other work created by Consultant in connection with performing Services, whether finished or unfinished ("Documents and Work"), shall be owned by Municipality, and Consultant hereby transfers to Municipality all right, title, and interest, including any copyright or other intellectual property rights, in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work shall become the property of Municipality and shall be delivered by Consultant to the Contract Administrator within fifteen (15) days after expiration or termination. Any compensation due to Consultant may be withheld until all Documents and Work are received as provided in this Agreement. Consultant shall ensure that the requirements of this section are included in all agreements with its Subconsultant(s).

**11.3 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.

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

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

11.4.2 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;

11.4.3 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

11.4.4 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.

11.4.5 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.

11.4.6 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 [Insert Phone Number], [Insert Email Address], [insert physical address].**

11.5 Audit Rights and Retention of Records. 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 any outside representative engaged by either entity). 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.

11.5.1 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.

11.5.2 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 for such review. 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](#).

11.5.3 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.

11.5.4 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.

11.5.5 Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations as stated in Sections 11.4 and 11.5.

11.6 Subconsultants. Consultant shall utilize only the Subconsultants identified in [Exhibit E](#), Schedule of Subconsultants, to provide the Services for this Project. Consultant shall obtain written approval of Contract Administrator prior to changing or modifying the Schedule of Subconsultants, which shall be automatically updated upon such written approval. Consultant shall bind in writing each and every approved Subconsultant to the terms stated in this Agreement, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 9 on Consultant's Subconsultants.

11.7 Assignment. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit the non-assigning Party to immediately terminate this Agreement, in addition to any other remedies available to the non-assigning Party at law or in equity. Municipality reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to Municipality to reasonably compensate it for the performance of any such due diligence.

11.8 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 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.

11.9 Prior Agreements. This Agreement is the final and complete understanding of the Parties regarding the subject matter of this 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 this Agreement are contained herein.

11.10 Amendments. Unless otherwise expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of Municipality and Consultant.

11.11 Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party providing notice of such change in accordance with this section.

FOR MUNICIPALITY:

\_\_\_\_\_  
Attn: \_\_\_\_\_

\_\_\_\_\_, Florida \_\_\_\_\_

Email address: \_\_\_\_\_

FOR CONSULTANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email address: \_\_\_\_\_

11.12 Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made

to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

11.13 Consultant’s Staff. Consultant will provide the key staff identified in its proposal for Project as long as said key staff are in Consultant’s employment. Consultant will obtain prior written approval of Contract Administrator to change key staff. Consultant shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications. If Contract Administrator desires to request removal of any of Consultant’s staff, Contract Administrator shall first meet with Consultant and provide reasonable justification for said removal; upon such reasonable justification, Consultant shall use good faith efforts to remove or reassign the staff at issue.

11.14 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 this Agreement.

11.15 Independent Contractor. Consultant is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services under this Agreement, neither Consultant nor its agents shall act as officers, employees, or agents of Municipality, except as authorized by the Contract Administrator for permitting, licensing, or other regulatory requirements. Consultant shall not have the right to bind Municipality to any obligation not expressly undertaken by Municipality under this Agreement.

11.16 Regulatory Capacity. Notwithstanding the fact that Municipality is a political subdivision with certain regulatory authority, Municipality’s performance under this Agreement is as a Party to this Agreement and in the capacity of Municipality as owner of the Project. If Municipality exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to Municipality’s regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to Municipality as a Party to this Agreement.

11.17 Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by Municipality nor shall anything included herein be construed as consent by Municipality to be sued by third parties in any matter arising out of this Agreement. Municipality is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

11.18 Third-Party Beneficiaries. Except for County to the extent expressly identified herein, neither Consultant nor Municipality intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that, other than County, there are no third-party beneficiaries to this Agreement and that no third party other than County shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.19 Conflicts. Neither Consultant nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Consultant's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the term of this Agreement, none of Consultant's officers or employees shall serve as an expert witness against Municipality or County in any legal or administrative proceeding in which he, she, or Consultant is not a party, unless compelled by legal process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of such person's expert opinion that is adverse or prejudicial to the interests of Municipality or County in connection with any such pending or threatened legal or administrative proceeding unless compelled by legal process. The limitations of this section shall not preclude Consultant or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Consultant is permitted pursuant to this Agreement to utilize Subconsultants to perform any Services required by this Agreement, Consultant shall require such Subconsultants, by written contract, to comply with the provisions of this section to the same extent as Consultant.

11.20 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.21 Compliance with Laws. Consultant and the Services must comply with all Applicable Law, including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.22 Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.23 Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either Party.

**[TAILOR "PRIORITY OF PROVISIONS" IF NECESSARY]**

11.24 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

11.25 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

11.26 Reuse of Project. Municipality may, at its option, reuse (in whole or in part) the resulting end-product or deliverables resulting from Consultant's Services (including, but not limited to, drawings, specifications, other documents, and services as described herein and in Exhibit A); and Consultant agrees to such reuse in accordance with this provision. If the Contract Administrator elects to reuse the services, drawings, specifications, and other documents, in whole or in part, prepared for this Project for other projects on other sites, Consultant will be paid a reuse fee to be negotiated between Consultant and Municipality, subject to approval by the proper awarding authority. Each reuse shall include all Basic Services and modifications to the drawings, specifications, and other documents normally required to adapt the design documents to a new site. This reuse may include preparation of reverse plans, changes to the program, provision for exceptional site conditions, preparation of documents for off-site improvements, provisions for revised solar orientation, provisions for revised vehicular and pedestrian access, and modifications to building elevations, ornament, or other aesthetic features. In all reuse assignments, the design documents shall be revised to comply with building codes and other jurisdictional requirements current at the time of reuse for the new site location. The terms and conditions of this Agreement shall remain in force for each reuse project, unless otherwise agreed by the Parties in writing.

11.27 Payable Interest.

11.27.1 Payment of Interest. Unless prohibited by Applicable Law, Municipality shall not be liable for interest to Consultant for any reason, whether as prejudgment interest or for any other purpose, and Consultant waives, rejects, disclaims, and surrenders any

and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.27.2 Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by Municipality under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.28 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.29 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

**[DELETE REMAINING SECTIONS IF NOT APPLICABLE]**

11.30 Workforce Investment Program. This Agreement constitutes a “Covered Contract” under the Broward Workforce Investment Program, Section 19.211, Broward County Administrative Code (“Workforce Investment Program”). Consultant affirms it is aware of the requirements of the Workforce Investment Program and agrees to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth the Workforce Investment Program, including by (a) publicly advertising exclusively with CareerSource Broward for at least five (5) business days any vacancies that are the direct result of this Agreement (whether those vacancies are with Consultant or its Subconsultants) and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement. Until at least one year after the conclusion of this Agreement, Consultant shall maintain and make available to County upon request all records documenting Consultant’s compliance with the requirements of the Workforce Investment Program, and shall submit the required Workforce Investment Reports to the Contract Administrator annually by January 31 and within thirty (30) days after the expiration or termination of this Agreement. Failure to demonstrate good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal shall constitute a material breach of this Agreement.

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



IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Municipality, [CITY/TOWN/VILLAGE OF \_\_\_\_\_] 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

WITNESS:

\_\_\_\_\_  
Signature of Witness

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

\_\_\_\_\_  
Print or Type Name of Witness

\_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature of Witness

By: \_\_\_\_\_  
\_\_\_\_\_, Municipal Manager

\_\_\_\_\_  
Print or Type Name of Witness

\_\_\_\_\_ day of \_\_\_\_\_, 2020

ATTEST:

\_\_\_\_\_  
Municipal Clerk

Approved as to legal form by:

\_\_\_\_\_  
Municipal Attorney



**AGREEMENT BETWEEN CITY/TOWN/VILLAGE OF \_\_\_\_\_ AND  
\_\_\_\_\_  
\_\_\_\_\_  
(RFP/RLI # \_\_\_\_\_)**

FOR INDIVIDUAL:

Consultant

WITNESSES:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print/Type Name

By \_\_\_\_\_

\_\_\_\_\_  
(Please Type Name)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FOR CORPORATION:

Consultant

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**  
**Scope of Services**

**Exhibit B  
Maximum Billing Rates**

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

	MAXIMUM HOURLY RATE (\$/HR)		MULTIPLIER		MAXIMUM BILLING RATE (\$/HR)
TITLE		X		=	
[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 B-1**  
**Reimbursables for Direct Non-Salary Expenses**

Reimbursable	Maximum Reimbursable
<b>Total Maximum Reimbursables:</b>	

**Exhibit C**  
**Minimum Insurance Requirements**  
**[MUNICIPALITY INSURANCE/RISK FORM]**

**Exhibit D**  
**Work Authorization**

Agreement Title: \_\_\_\_\_  
Agreement Date: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Work Authorization No. \_\_\_\_\_  
Consultant: \_\_\_\_\_

---

This Work Authorization is between Municipality \_\_\_\_\_ and Consultant pursuant to the Agreement. Consultant affirms that the representations and warranties in the Agreement are true and correct as of the date this Work Authorization is executed by Consultant. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

The time period for this Work Authorization will be from the date of Municipality's Notice to Proceed until [\_\_\_\_ (\_\_\_\_)] days after the Notice to Proceed, unless otherwise extended or terminated by the Contract Administrator.

**Services to be provided:**

**[COMPOSE SIMPLE SUMMARY]**

See Exhibit A for additional detail.

The applicable not-to-exceed amount stated in the Agreement for the work at issue is: \$[\_\_\_\_\_].

The total fee for goods and services under this Work Authorization is: \$[\_\_\_\_\_]  
("Total Fee").

The Total Fee shall be invoiced by Consultant upon written acceptance by Municipality of all goods and services provided under this Work Authorization.

*(Signatures appear on the following page.)*

IN WITNESS WHEREOF, the Parties hereto have made and executed this Work Authorization, effective as of the date the last party signs this Work Authorization.

**Municipality**

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contract Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board or Designee

\_\_\_\_\_  
Date

Approved as to form by Municipality's Attorney:

\_\_\_\_\_  
[Insert Name and Title]

\_\_\_\_\_  
Date

**Consultant**

WITNESSES

[Name of Consultant]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print/Type Name

ATTEST

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print/Type Name of Secretary)

CORPORATE SEAL

**Exhibit E**  
**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.		