

**AGREEMENT BETWEEN CITY OF OAKLAND PARK  
AND R.J BEHAR & COMAPANY, INC. FOR CONSULTANT SERVICES FOR  
Broward County Surtax # OAKL-023 Mast Arm Traffic Signals  
(RFQ # 011822)**

This Agreement ("Agreement") is made and entered by and between City of Oakland Park Florida, a political subdivision of the State of Florida ("Municipality"), and R.J. **Behar & Company, Inc.**, a Florida corporation ("Consultant") (each a "Party" and collectively referred to as the "Parties").

**RECITALS**

A. 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. Engineering**

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 City of Oakland Park, or such other person designated by Director of Engineering and Building Services in writing. The Contract Administrator is the representative of Municipality concerning the Project.

1.4 **Consultant** 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 Contract Administrator 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 F</b>	<b>CBE Subconsultant Schedule and Letters of Intent</b>
<b>Exhibit G</b>	<b>Project Schedule</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**

The term of this Agreement shall be for the period beginning on August 1, 2022, and ending April 21, 2023. 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.

## **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 **\$950,939.83**.

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.

<b>Project Phase</b>	<b>Fee %</b>	<b>Phase Amount</b>
Predesign Services/Data Collection	30%	<b>\$285,281.95</b>
Phase I: Schematic Design	15%	<b>\$142,640.97</b>
Phase II: Design Development	27%	<b>\$256,753.75</b>
Phase III: Construction Documents	21%	<b>\$199,697.36</b>
Phase IV: Final Documents	7%	<b>\$ 66,565.79</b>
Phase V: Administration of the Construction Contract	0%	\$ _____
Phase VI: Warranty Administration and Post-Occupancy Services	0%	\$ _____
<b>Total Basic Services Fee</b>	<b>100%</b>	<b><u>\$950,939.83</u></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:  
6861 SW 196<sup>th</sup> Avenue, Suite 302, Pembroke Pines, FL 33332.

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.

#### **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.

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.

Consultant shall ensure that Municipality "City of Oakland Park, 3250 NE 12<sup>th</sup> Avenue, Oakland Park, FL 33009" 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.

9.2 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.

9.3 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).

9.4 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.

9.5 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.

9.6 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.

9.7 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.

9.8 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.

9.9 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.

9.10 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.

10.2 Consultant must meet or exceed the required 30% CBE goal by utilizing the CBE firms listed in Exhibit F (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 F and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

10.3 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.

10.4 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.

10.5 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.

10.6 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.

10.7 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.

10.8 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 City of Oakland Park, 3250 NE 12<sup>th</sup> Avenue, Oakland Park, FL 33009.**

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:

City Manager  
3250 NE 12<sup>th</sup> Avenue  
Oakland Park, FL 33009

Director of Engineering and Building Services  
5399 North Dixie Highway  
Oakland Park, FL 33334

City Attorney  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, FL 33308

FOR CONSULTANT:

**Paola Riveros, P.E**

**6861 SW 196<sup>th</sup> Avenue, Suite 302**

**Pembroke Pines, FL 33332**

Email address: **[priveros@rjbehar.com](mailto:priveros@rjbehar.com)**

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.

11.24 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.**

11.25 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.

11.26 Payable Interest.

11.26.1 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.

11.26.2 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).

11.27 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.

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

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Municipality, CITY OF OAKLAND PARK FL. 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 R.J Behar & Company, Inc, 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

City of Oakland Park  
RFQ #011822, Professional Engineering Services, Mast Arm Traffic Signals

**AGREEMENT BETWEEN CITY OF OAKLAND PARK AND  
R.J. BEHAR & COMPANY, INC. FOR CONSULTANT SERVICES FOR  
MAST ARM TRAFFIC SIGNALS # OAKL-023  
(RFP/RLI # 011822 )**

FOR INDIVIDUAL:

Consultant

WITNESSES:

\_\_\_\_\_  
Signature

By \_\_\_\_\_

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

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

\_\_\_\_\_  
Signature

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

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

FOR CORPORATION:

Consultant

ATTEST:



Secretary

\_\_\_\_\_  
Dereth Behar  
(Typed Name of Secretary)

R. J. BEHAR & COMPANY, INC.

By  \_\_\_\_\_

\_\_\_\_\_  
Robert J. Behar, P.E., President  
(Typed Name and Title)

CORPORATE SEAL

6th day of June, 2022.



## Exhibit A Scope of Services

### 1. Project General Tasks Staff Hour Estimate (SHE Activity 3)

Project General Tasks, described below, represent work efforts that are applicable to the Project as a whole and not to any one or more specific Project activity. The work described in these tasks shall be performed by the Consultant.

#### 1.1.1. Other Agency Meetings (SHE Activity 3, Task No. 3.1.11)

In addition to scheduled public meeting, the Consultant may be required to participate in meetings with local governing authorities and/or MPO. The Consultant's participation may include, but not be limited to, presentations during the meeting, note taking, and summarizing the meeting in a memo to the file. It is estimated for this Project there will be 2 meetings with local governing authorities such as: FDOT, City of Oakland Park, Metropolitan Planning Organization (MPO), and Broward County Commission.

In addition, the Consultant shall be responsible for coordinating with the State Archeologist and Florida Division of Historical Resources to address any burial sites within the project limits.

#### 1.2. Specifications Package Preparation (SHE Activity 3, Task No. 3.3)

This task includes the time for Consultant to assemble the Specification Package.

#### 1.3. Contract Maintenance and Project Documentation Specifications Package Preparation (SHE Activity 3, Task No. 3.4)

Contract maintenance includes Project management effort for complete setup and maintenance of files, electronic folders, and documents, developing technical monthly progress reports and schedule updates. Project documentation includes the compilation and delivery of final documents, reports or calculations that support the development of the contract plans.

#### 1.4. Prime Consultant Project Manager Meetings (SHE Activity 3, Task No. 3.6)

Includes only the Prime Consultant Project Manager's time for attendance at Activity Technical Meetings and other meetings included in the List of Project Manager Meetings in accordance with SHE Activity 3, Task No. 3.6. Staff hours for other personnel attending Activity Technical Meetings are included in the meeting task for that specific Activity.

#### 1.5. Landscape and Existing Vegetation Coordination (SHE Activity 3, Task No. 3.12)

Consultant shall coordinate to ensure preservation and protection of existing vegetation. Relocation of existing vegetation may be necessary in some cases. Space for proposed landscape should be preserved and conflicts with drainage, utilities, signals, and signage should be minimized.

### 2. Road Analysis (SHE Activity 4)

Roadway Analysis, described below, represent work efforts that are applicable to the Project as a whole and not to any one or more specific Project activity. The work described in these tasks shall be performed by the Consultant.

### 2.1. Temporary Traffic Control Plan (TTCP) Analysis (SHE Activity 4, Task No. 4.10)

The Consultant shall design a safe and effective TTCP Level II to move vehicular and pedestrian traffic during all phases of construction. The design shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations, roadway pavement, drainage structures, ditches, front slopes, back slopes, drop offs within clear zone, transit stops, and traffic monitoring sites. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be always maintained. The design shall include construction phasing of roadways to accommodate the construction or relocation of utilities when the contract includes Joint Project Agreements (JPAs).

The Consultant shall investigate the need for temporary highway lighting, detours, diversions, lane shifts, and the use of materials such as sheet piling in the analysis. The Consultant is to coordinate with City of Oakland Park during the design in order to maintain existing lighting levels. The TTCP shall be prepared by a certified designer who has completed training as required by the City. Before proceeding with the TTCP, the Consultant shall meet with the appropriate City personnel. The purpose of this meeting is to provide information to the Consultant that will better coordinate the Preliminary and Final TTCP efforts.

The Consultant shall consider the local impact of any lane closures or alternate routes, when the need to close a road is identified during this analysis. Proposed road closings must be reviewed and approved by the City. Diligence shall be used to minimize negative impacts by appropriate specifications, recommendations, or plans development. Local impacts to consider will be local events, holidays, peak seasons, detour route deterioration and other eventualities. Consultant shall be responsible to obtain local authorities' permission for use of detour routes not on state/County highways.

The Consultant shall include all work necessary to develop a TTCP concept, such as determining the usage of lane closures, lane configurations, traffic pacing, detours, diversions, lane shifts, bridge transitions, temporary drainage, temporary signals including signal clearances, retaining walls, and pedestrian TTCP. Tis TTCP is categorized as a Level I.

## 3. Roadway Plans (SHE Activity 5)

The Consultant shall prepare TTCP. The plans shall include the following sheets: TTCP Plan Sheets. Plan Sheets shall be formatted to meet the required scale at an 24 inch x 36 inch size (full size).

## 4. DRAINAGE PLANS (SHE Activity 6b)

The Consultant shall prepare Drainage plan sheets, notes, and details. The plans shall include the following sheets necessary to convey the intent and scope of the Project for the purposes of construction: Summary of Drainage Structures, Drainage Structure Sheets (Per Structure) and Miscellaneous Drainage Detail Sheets.

## 5. Utilities (SHE Activity 7)

The Consultant shall identify utility facilities and secure agreements, utility work schedules, and plans from the Utility Agency Owners (UAO) ensuring all conflicts that exist between utility facilities and the County's construction Project are addressed and shall not conflict with the physical construction schedule. The Consultant shall certify all utility negotiations have been completed and that arrangements have been made for utility work to be undertaken. The Consultant shall ensure County standards, policies, procedures, practices, and design criteria are followed concerning utility coordination.

The Consultant shall identify a dedicated person responsible for managing all utility coordination activities. This person shall be responsible for managing all utility coordination, including the following:

- Assuring that Utility Coordination and accommodation is in accordance with FDOT, FHWA, and AASHTO standards, policies, procedures, and design criteria.
- Assisting the engineer of record in identifying all existing utilities and coordinating any new installations. Assisting the Engineer of Record with resolving utility conflicts.
- Scheduling and performing utility coordination meetings, keeping and distribution of minutes/action items of all utility meetings, and ensuring expedient follow-up on all unresolved issues.
- Distributing all plans, conflict matrixes and changes to affected utility owners and making sure this information is properly coordinated and documented.
- Identifying and coordinating the completion of any utility owner agreement that is required for reimbursement, or accommodation of the utility facilities associated with the Project.
- Review and certify to the City Project Manager that all Utility Work Schedules are correct and in accordance with the City's standards, policies, and procedures.
- Prepare, review, and process all utility related reimbursable paperwork inclusive of betterment and salvage determination.

### 5.1. Identify Existing Utility Agency Owner(s) (SHE Activity 7, Task No. 7.2)

The Consultant shall identify all utilities within and adjacent to the Project limits that may be impacted by the Project.

### 5.2. Make Utility Contacts (SHE Activity 7, Task No. 7.3)

First Contact: The Consultant shall send letters and two sets of plans to each utility, one set for the utility office, and one set to the City Offices. Includes contact by phone for meeting coordination. Request type, size, location, easements, and cost for relocation if reimbursement is claimed. Request the voltage level for power lines in the Project area. Include the meeting schedule (if applicable) and the design schedule. Include typical meeting agenda. If scheduling a meeting, give a 4-week notice.

Second Contact: At a minimum of 4 weeks prior to the meeting, the Consultant shall transmit two complete sets of Phase II plans and the utility conflict information (when applicable and in the format requested by the City) to each UAO having facilities located within the Project limits, and one set to the City Offices.

### 5.3. Preliminary Utility Meeting (SHE Activity 7, Task No. 7.5)

The Consultant shall schedule (time and place), notify participants, and conduct a preliminary utility meeting with all UAO(s) having facilities located within the Project limits for the purpose of presenting the Project, review the current design schedule, evaluate the utility information collected, provide follow-up information on compensable property rights from the City, discuss the utility work by



highway contractor option with each utility, and discuss any future design issues that may impact utilities. This is also an opportunity for the UAO(s) to present proposed facilities. The Consultant shall keep accurate minutes and distribute a copy to all attendees.

#### 5.4. Individual/Field Meetings (SHE Activity 7, Task No. 7.6)

The Consultant shall meet with each UAO as necessary, separately or together, throughout the Project design duration to provide guidance in the interpretation of plans, review changes to the plans and schedules, standard or selective clearing and grubbing work, and assist in the development of the UAO(s) plans and work schedules. The Consultant is responsible for motivating the UAO to complete and return the necessary documents after each Utility Contact or Meeting.

#### 5.5. Collect and Review Plans and Data from UAO(s) (SHE Activity 7, Task No. 7.7)

The Consultant shall review utility marked plans and data individually as they are received for content. Ensure information from the UAO (utility type, material, and size) is sent to the designer for inclusion in the plans. Forward all requests for utility reimbursement and supporting documentation to the City.

#### 5.6. Utility Design Meeting (SHE Activity 7, Task No. 7.9)

The Consultant shall schedule (time and place), notify participants, and conduct a Utility meeting with all affected UAO(s). The Consultant shall be prepared to discuss impacts to existing trees/vegetation and proposed landscape, drainage, traffic signalization, TTCP (construction phasing), review the current design schedule and letting date, evaluate the utility information collected, provide follow-up information on compensable property rights, discuss with each UAO the utility work by highway contractor option, discuss any future design issues that may impact utilities, etc., to the extent that they may have an effect on existing or proposed utility facilities with particular emphasis on drainage and TTCP with each UAO.

The intent of this meeting shall be to assist the UAOs in identifying and resolving conflicts between utilities and proposed construction before completion of the plans, including utility adjustment details. Also, to work with the UAOs to recommend potential resolution between known utility conflicts with proposed construction plans as may be deemed practical by the UAO. The Consultant shall keep accurate minutes of all meetings and distribute a copy to all attendees within 3 days.

#### 5.7. Review Utility Markups & Work Schedules and Processing of Schedules & Agreements (SHE Activity 7, Task No. 7.10)

The Consultant shall review utility marked up plans and work schedules as they are received for content and coordinate review with the designer. Send color markups and schedules to the appropriate City office(s) such as survey, geotechnical, drainage, structures, lighting, roadway, signals, utilities, landscape architecture, municipalities, and Broward County Traffic Operations for review and comment if required. Coordinate with the City for execution. Distribute Executed Final Documents. The Consultant shall coordinate with the City Personnel the programming of necessary funds for utilities relocation.

#### 5.8. Utility Coordination/Follow-up (SHE Activity 7, Task No. 7.11)

The Consultant shall provide utility coordination and follow up. This includes follow-up, interpreting plans, and assisting the UAOs with completion of their work schedules and agreements. Includes phone calls, face-to-face meetings, etc., to motivate and ensure the UAO(s) complete and return the

required documents in accordance with the Project schedule. Ensure the resolution of all known conflicts. The Consultant shall keep accurate minutes of all meetings and distribute a copy to all attendees. This task can be applied to all phases of the Project.

#### 5.9. Certification/Close-Out (SHE Activity 7, Task No. 7.16)

This includes hours for transmitting utility files to the City Project Manager and preparation of the Utility Certification Letter. The Consultant shall certify to the appropriate City representative one of the following below per each utility company:

- All utility negotiations (Full execution of each agreement, approved Utility Work Schedules, Technical Special Provisions or Modified Special Provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required for proper coordination with the physical construction schedule.  
OR
- An on-site inspection was made, and no utility work shall be involved.  
OR
- Plans were sent to the Utility Companies/Agencies and no utility work is required.

Following utility certification Consultant is not responsible for utility owner's conducting relocations.

#### 5.10. Other Utilities (SHE Activity 7, Task No. 7.17)

The Consultant shall coordinate with Railroad Road and FAA.

### 6. Environmental Permits and Environmental Clearances (SHE Activity 8)

#### 6.1. FDOT Permits (SHE Activity 8, Task No. 8.12)

The Consultant shall obtain FDOT Construction Permits. The following locations have been identified as requiring FDOT permits:

- Oakland Park Boulevard at Somerset Drive
- Oakland Park Boulevard at NW 27<sup>th</sup> Avenue
- Oakland Park Boulevard at NE 16<sup>th</sup> Avenue
- Dixie Highway at NE 56<sup>th</sup> Street
- Dixie Highway at Prospect Road
- Dixie Highway at NE 45<sup>th</sup> Street
- Dixie Highway at NE 33<sup>rd</sup> Street
- Powerline Road at City Oakland Park, Fire Station No. 20

#### 6.2. Structures - Miscellaneous (SHE Activity 18)

The Consultant shall prepare plans for Miscellaneous Structure(s) as specified in Section 12 Structures (SHE Activity 18).

### Mast Arms

#### 6.2.1. Mast Arms (SHE Activity 18, Task No. 18.9)

Consultant shall gather and analyze information. Run Mathcad program. Check Clearances. Prepare construction plans.

#### 6.2.2. Mast Data Table Plan Sheets (SHE Activity 18, Task No. 18.10)

Consultant shall include production of data table plan sheets. 6 mast arms per sheet.

#### 6.2.3. Mast Arm Detail Plan Sheets (SHE Activity 18, Task No. 18.11)

Consultant shall prepare mast arm detail plan sheets for special conditions. These include mast arm spread footing.

### 7. Signing and Pavement Markings Analysis (SHE Activity 19)

The Consultant shall analyze and document Signing and Pavement Markings Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums.

The Consultant shall perform FDOT and MUTCD compliant signing and pavement markings within the Project limits affected by constructions and TTCP lane shifts.

#### 7.1. Signing and Pavement Marking Master Design File (SHE Activity 19, Task No. 19.3)

The Consultant shall prepare the Signing & Marking Design file to include all necessary design elements and all associated reference files.

#### 7.2. Quantities (SHE Activity 19, Task No. 19.7)

Consultant shall include all work required to determine the quantities for each plan sheet.

#### 7.3. Technical Meetings (SHE Activity 19, Task No. 19.12)

Consultant shall attend meetings with local governments and Broward County Traffic Engineering.

### 8. Signing and Pavement Markings Plans (SHE Activity 20)

The Consultant shall prepare a set of Signing and Pavement Marking Plans in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums that includes the following sheets necessary to convey the intent and scope of the Project for the purposes of construction: Key Sheet, Tabulation of Quantities, General Notes/Pay Item Notes, Plan Sheet, Guide Sign Work Sheets, and Special Details.

### 9. Signalization Analysis (SHE Activity 21)

Consultant shall design signal plans at the proposed:

- NE 56<sup>th</sup> Street & NE 6<sup>th</sup> Ave.

- NE 56<sup>th</sup> Street & N Dixie Highway
- East to West Span at NE 51<sup>st</sup> Street (Mid-Block Signal)
- Powerline Rd & City of Oakland Park, Fire Station No. 20 (mid-Block Signal)
- N. Dixie Highway & NE 45<sup>th</sup> Street (Floranda Rd)
- NE 18<sup>th</sup> Avenue & NE 45<sup>th</sup> St (Floranda Rd)
- Prospect Rd & NW 5<sup>th</sup> Avenue (Mid- Block Signal)
- Prospect Rd & N. Andrews Ave
- Prospect Rd & NE 1<sup>st</sup> Terrace
- Prospect Rd & NE 6<sup>th</sup> Ave
- Prospect Rd & Dixie Highway
- N. Andrews Ave & NE 41<sup>st</sup> Street
- N. Andrews Ave & NE 38<sup>th</sup> Street
- NE 38<sup>th</sup> Street & NE 3<sup>rd</sup> Ave
- NE 38<sup>th</sup> Street & NE 6<sup>th</sup> Ave
- N. Dixie Highway & NE 33<sup>rd</sup> Street (Mid-Block Signal)
- W. Oakland Park Boulevard & Somerset Drive
- W. Oakland Park Boulevard & NW 27<sup>th</sup> Ave
- E. Oakland Park Boulevard & NE 16<sup>th</sup> Ave

The Consultant shall analyze and document Signalization Analysis Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums.

#### 9.1. Traffic Data Analysis (SHE Activity 21, Task No. 21.2)

The Consultant shall determine signal operation plan, intersection geometry, local signal timings, pre-emption phasing & timings, forecasting traffic, and intersection analysis run.

#### 9.2. Systems Timings (SHE Activity 21, Task No. 21.4)

The Consultant shall determine proper coordination timing plans including splits, force offs, offsets, and preparation of Time Space Diagram.

#### 9.3. Reference and Master Signalization Design File (SHE Activity 21, Task No. 21.5)

The Consultant shall prepare the Signalization Design file to include all necessary design elements and all associated reference files.

#### 9.4. Quantities (SHE Activity 21, Task No. 21.10)

Consultant shall include all work required to determine the quantities for each signalized intersection, traffic monitoring site and pedestrian crossing.

#### 9.5. Cost Estimates (SHE Activity 21, Task No. 21.11)

Consultant shall provide 3 cost estimates (60%, 90% and 100% complete).

#### 9.6. Other Signalization Analysis (SHE Activity 21, Task No. 21.13)

Consultant shall obtain Broward County Permits at 19 locations and provide temporary signal plans up to 4 locations (if needed).

#### 9.7. Field Reviews (SHE Activity 21, Task No. 21.14)

The Consultant shall collect information from the maintaining agencies and conduct a field review. The review should include, but is not limited to, the following:

- Existing Signal and Pedestrian Phasing
- Controller Make, Model, Capabilities and Condition/Age
- Condition of Signal Structure(s)
- Type of Detection
- Controller Timing Data

#### 9.8. Technical Meetings (SHE Activity 21, Task No. 21.15)

The Consultant shall attend technical meetings with:

- Broward County Traffic Engineering
- Florida Department of Transportation (FDOT)

### 10. Signalization Plans (SHE Activity 22)

The Consultant shall prepare a set of Signalization Plans in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums, which includes the following sheets necessary to convey the intent and scope of the Project for the purposes of construction: Key Sheet, Tabulation of Quantities, General Notes/Pay Item Notes, Plan Sheet, Guide Sign Worksheet, Special Service Point Details, and Mast Arm/Monotube Tabulation Sheet.

### 11. Lighting Analysis (SHE Activity 23)

New lighting system will be upgraded at the new signalized intersections. LED type luminaires shall be used. The Lighting Design Analysis Report shall include the latest FDOT requirements for intersection lighting to provide increased illumination within crosswalks for pedestrian safety. This report shall include photometric analyses along the roadway and at intersections; and include quantities, cost estimate, and voltage drop calculations. Consideration shall be given to temporary lighting for traffic control as required within the project limits.

The Consultant shall analyze and document Lighting Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums.

#### 11.1. Lighting Design Analysis Report (LDAR) (SHE Activity 23, Task No. 23.2)

The Consultant shall prepare a Lighting Design Analysis Report (LDAR). The Voltage Drop Calculations shall be submitted as part of the Lighting Design Analysis Report. The Consultant shall evaluate one alternative only.

#### 11.2. Voltage Drop Calculations (SHE Activity 23, Task No. 23.3)

The Consultant shall submit voltage drop calculations showing the equation(s) used along with the number of luminaires per circuit, the length of each circuit, the size conductor or conductors used, and their ohm resistance values. The voltage drop incurred on each circuit (total volts and percentage of drop) shall be calculated, and all work necessary to calculate the voltage drop values for each circuit should be presented in such a manner as to be duplicated by the City. The Voltage Drop Calculations shall be submitted as part of the Lighting Design Analysis Report.

#### 11.3. Reference and Master Design Files (SHE Activity 23, Task No. 23.5)

The Consultant shall prepare the Lighting Design file to include all necessary design elements and all associated reference files.

#### 11.4. Design Documentation (SHE Activity 23, Task No. 23.7)

The Consultant shall submit Design Documentation with each plan submittal under a separate cover and not part of the roadway documentation book. At a minimum, the design documentation shall include:

- Correspondence with the power company concerning new electrical service.

#### 11.5. Quantities (SHE Activity 23, Task No. 23.8)

Consultant shall determine the quantities for each plan sheet included on the various quantity sheets.

#### 11.6. Field Reviews (SHE Activity 23, Task No. 23.12)

The Consultant shall collect information from the maintaining agencies and conduct field reviews. The reviews shall include but are not limited to the following:

- Existing Lighting Equipment
- Load Center, Capabilities and Condition/Age
- Condition of Lighting Structure(s)
- Verification of horizontal clearances
- Verification of breakaway requirements

#### 11.7. Technical Meetings (SHE Activity 23, Task No. 23.13)

The Consultant shall conduct technical meetings with the following:

- Broward County
- FPL
- Maintaining Agency
- Progress meetings with City Staff
- Phase review meetings with City Staff

### 12. Lighting Plans (SHE Activity 24)

The Consultant shall prepare a set of Lighting Plans in accordance with all applicable manuals, guidelines, standards, handbooks, procedures, and current design memorandums, which includes the following sheets necessary to convey the intent and scope of the Project for the purposes of construction: Key Sheet, Summary of Pay Items, Tabulation of Quantities, General Notes/Pay Item Notes, Pole Data, Legend & Criteria, Service Point Details, Plan Sheet, and Special Details.

**Exhibit B**  
**Maximum Billing Rates**

Project No: OAKL-023  
Project Title: Mast Arm Traffic Signals  
Consultant Name: R.J. Behar & Company, Inc.

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE (\$/HR)
			2.94		
Chief Engineer 2	\$85.36		2.94		\$250.96
Project Manager 3	\$74.62		2.94		\$219.38
Senior Engineer 1	\$50.48		2.94		\$148.41
Senior Engineer 2	\$74.36		2.94		\$218.62
Senior Designer	\$52.36		2.94		\$153.94
Engineer 2	\$47.18		2.94		\$138.71
Engineer Intern	\$34.14		2.94		\$100.37
Engineering Technician	\$31.00		2.94		\$91.14

**Multiplier of 2.94 is calculated as follows:**

**OVERHEAD = 131.17%**

**FRINGE = 36.19%**

**OPERATING MARGIN = 10%**

**MULTIPLIER = (1 + OVERHEAD + FRINGE) X PROFIT MARGIN**

**(1+1.3117+.3619) X 1.10 = 2.94**



**Exhibit B-1**  
**Reimbursables for Direct Non-Salary Expenses**

Not Applicable

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

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

Throughout the term of this Agreement, the Consultant shall maintain in force at its own expense and name the City of Oakland Park and Broward County as additional insureds for insurance as follows:

- **Workers' Compensation:** Workers' Compensation Insurance with statutory limits, including coverage for Employer's Liability, with limits not less than \$1,000,000.00.
- **General Liability:** Commercial General Liability with limits not less than \$1,000,000.00 each occurrence combined single limit for Bodily Injury and Property damage including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. This coverage is required by the Consultant and any subcontractor or anyone directly or indirectly employed by either of them. The City shall be named additional insured.
- **Automobile Liability:** Comprehensive or Business Automobile Liability Insurance with not less than \$500,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for owned, hire and non-owned vehicles as applicable. The Consultant and any of its approved subcontractors shall take out and maintain this insurance coverage against claims for damages resulting from bodily injury, including wrongful death and property damage which may arise from the operations of any owned, hired or non-owned automobiles and/or equipment used in any endeavor in connection with the carrying out of this Agreement. The City shall be named as an additional insured.
- **Professional Liability:** The Consultant, its officers, employees and agents will provide the City a Certificate of Insurance evidencing professional liability insurance with limits of not less than \$1,000,000.00 aggregate with respect to acts, errors or omissions in connection with professional services to be provided under this Agreement and any deductible is not to exceed \$25,000.00 for each claim. Consultant represents it is financially responsible for the deductible amount. The Consultant shall maintain professional liability insurance during the term of this Agreement and for a period of four (4) years from the date of completion of each Project. In the event that Consultant goes out of business during the term of this Agreement or the four (4) year period described above, Consultant shall purchase Extended Reporting Coverage for claims arising out of Consultant's negligent acts errors and omissions during the term of the Professional Liability Policy.
- **Subcontractor's Insurance:** Each subcontractor, to the extent applicable, shall furnish to the Consultant two (2) copies of the Certificate of Insurance and Consultant shall furnish one copy of the Certificate to the City, and shall name the City and Broward County as additional insureds.
- 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.
- The required insurance shall be proved under occurrence based policies, which Consultant shall maintain continuously throughout the term of this Agreement.

- Any deductibles or self-insured retentions must be declared to and approved by the City Administrator or designee prior to the start of work under this Agreement. The City reserves the right to request additional documentation, financial or other such documentation as well as such additional insurance as the City Administrator deems appropriate, prior to giving approval of the deductible or self-insured retention and prior to executing the Agreement. The City Administrator or designee, prior to the change taking effect, must approve any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy.

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

Agreement Title: Mast Arm Traffic Signals  
Agreement Date: \_\_\_\_\_  
Contract Number: \_\_\_\_\_  
Work Authorization No. \_\_\_\_\_  
Consultant: R. J. Behar & Company, Inc.

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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: \$950,939.83.

The total fee **for** goods and **services under this Work Authorization** is: \$950,939.83 ("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.)*

City of Oakland Park

RFQ #011822, Professional Engineering Services, Mast Arm Traffic Signals

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



Signature

Paola Riveros, P.E.

Print/Type Name



Signature

Lizanna Kadir

Print/Type Name

**R. J. Behar & Company, Inc.**



06/06/2022

Signed

Date

Robert J. Behar, P.E.

Print/Type Name

President

Title

ATTEST



Signed

Date

Dereth Behar

06/06/2022

(Print/Type Name of Secretary)

CORPORATE SEAL



**Exhibit E**  
**Schedule of Subconsultants**

Project No: 011822  
Project Title: Mast Arm Traffic Signals  
Facility Name: R.J. Behar & Company, Inc.

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No.	Firm Name	Discipline
1.	Arehna Engineering, Inc.	Geotechnical Engineering
2.	Engenuity Group, Inc.	Surveying & Subsurface Utility Exp
3.	Smith Engineering Consultants, Inc.	Signals and ITS
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		



**SURTAX PROJECTS AND SERVICES (MUNICIPALITY)**  
**LETTER OF INTENT**  
**BETWEEN BIDDER/OFFEROR AND**  
**COUNTY BUSINESS ENTERPRISE (CBE) FIRM/SUPPLIER**

This form is to be completed and signed for each CBE firm. If the PRIME is a CBE firm, please indicate the percentage performed with your own forces.

**Municipality (City/Town/Village):** City of Oakland Park

**Solicitation No.:** 011822 **Project Title:** Professional Engineering Services for Broward County Surtax Project #OAKL-023

**Bidder/Offeror Name:** R.J. Behar & Company, Inc.

**Address:** 6861 SW 196th Avenue, Suite 302 **City:** Pembroke Pines **State:** FL **Zip:** 33332

**Authorized Representative:** Robert J. Behar, PE

**Phone:** (954) 680-7771 **Email:** bbehar.com

**CBE Firm/Supplier Name:** Engenuity Group, Inc.

**Address:** 300 Lock Road, Suite 302 **City:** Deerfield Beach **State:** FL **Zip:** 33442

**Authorized Representative:** C. Andre Rayman, PSM

**Phone:** 954-895-0174 **Email:** arayman@engenuitygroup.com

- A. This is a letter of intent between the bidder/offeror on this project and a CBE firm for the CBE to perform work on this project.
- B. By signing below, the bidder/offeror is committing to utilize the above-named CBE to perform the work described below.
- C. By signing below, the above-named CBE is committing to perform the work described below.
- D. By signing below, the bidder/offeror and CBE affirm that if the CBE subcontracts any of the work described below, it may only subcontract that work to another CBE.

**WORK TO BE PERFORMED BY CBE FIRM(S)**

Description	NAICS <sup>1</sup>	CBE Contract Amount <sup>2</sup>	CBE Percentage of Total Project Value
Surveying and Subsurface Utility Exploration	541360	TBD	13%

**AFFIRMATION:** I hereby affirm that the information above is true and correct.

**CBE Firm/Supplier Authorized Representative**

**Signature:** C. Andre Rayman, PSM Digitally signed by C. Andre Rayman, PSM  
Date: 2022.01.13 11:26:49 -05'00' **Title:** President **Date:** 1/13/2022

**Bidder/Offeror Authorized Representative**

**Signature:**  **Title:** President **Date:** 1/13/2022

<sup>1</sup> Visit <https://www.census.gov/eos/www/naics/> to search and identify the correct NAICS codes. Match each type of work with the most appropriate NAICS code.

<sup>2</sup> To be provided only when the solicitation requires that the bidder/offeror include a dollar amount in its bid/offer.

*In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.*





**SURTAX PROJECTS AND SERVICES (MUNICIPALITY)**  
**LETTER OF INTENT**  
**BETWEEN BIDDER/OFFEROR AND**  
**COUNTY BUSINESS ENTERPRISE (CBE) FIRM/SUPPLIER**

This form is to be completed and signed for each CBE firm. If the PRIME is a CBE firm, please indicate the percentage performed with your own forces.

**Municipality (City/Town/Village):** City of Oakland Park

**Solicitation No.:** 011822 **Project Title:** Professional Engineering Services for Broward County Surtax Project #OAKL-023

**Bidder/Offeror Name:** R.J. Behar & Company, Inc.

**Address:** 6861 SW 196th Avenue, Suite 302 **City:** Pembroke Pines **State:** FL **Zip:** 33332

**Authorized Representative:** Robert J. Behar, PE

**Phone:** (954) 680-7771 **Email:** bbehar.com

**CBE Firm/Supplier Name:** Arehna Engineering, Inc.

**Address:** 12296 Wiles Road **City:** Coral Springs **State:** FL **Zip:** 33076

**Authorized Representative:** Jessica McRory, PE

**Phone:** 813-944-3464 **Email:** jmcroory@arehna.com

- A. This is a letter of intent between the bidder/offeror on this project and a CBE firm for the CBE to perform work on this project.
- B. By signing below, the bidder/offeror is committing to utilize the above-named CBE to perform the work described below.
- C. By signing below, the above-named CBE is committing to perform the work described below.
- D. By signing below, the bidder/offeror and CBE affirm that if the CBE subcontracts any of the work described below, it may only subcontract that work to another CBE.

**WORK TO BE PERFORMED BY CBE FIRM(S)**

Description	NAICS <sup>1</sup>	CBE Contract Amount <sup>2</sup>	CBE Percentage of Total Project Value
Geotechnical Engineering	541330	TBD	13%

**AFFIRMATION:** I hereby affirm that the information above is true and correct.

**CBE Firm/Supplier Authorized Representative**

**Signature:** Jessica McRory **Title:** President **Date:** 1/13/2022

**Bidder/Offeror Authorized Representative**

**Signature:** R.J. Behar **Title:** President **Date:** 1/13/2022

<sup>1</sup> Visit <https://www.census.gov/eos/www/naics/> to search and identify the correct NAICS codes. Match each type of work with the most appropriate NAICS code.

<sup>2</sup> To be provided only when the solicitation requires that the bidder/offeror include a dollar amount in its bid/offer.

*In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.*



**SURTAX PROJECTS AND SERVICES (MUNICIPALITY)**  
**LETTER OF INTENT**  
**BETWEEN BIDDER/OFFEROR AND**  
**COUNTY BUSINESS ENTERPRISE (CBE) FIRM/SUPPLIER**

This form is to be completed and signed for each CBE firm. If the PRIME is a CBE firm, please indicate the percentage performed with your own forces.

**Municipality (City/Town/Village):** City of Oakland Park

**Solicitation No.:** 011822 **Project Title:** Professional Engineering Services for Broward County Surtax Project #OAKL-023

**Bidder/Offeror Name:** R.J. Behar & Company, Inc.

**Address:** 6861 SW 196th Avenue, Suite 302 **City:** Pembroke Pines **State:** FL **Zip:** 33332

**Authorized Representative:** Robert J. Behar, PE

**Phone:** (954) 680-7771 **Email:** bbehar.com

**CBE Firm/Supplier Name:** Smith Engineering Consultants, Inc.

**Address:** 412 S.E. 18th Street **City:** Fort Lauderdale **State:** FL **Zip:** 33316

**Authorized Representative:** Larry M. Smith, PE

**Phone:** 954-590-0488 **Email:** larry@smithengineeringconsultants.com

- A. This is a letter of intent between the bidder/offeror on this project and a CBE firm for the CBE to perform work on this project.
- B. By signing below, the bidder/offeror is committing to utilize the above-named CBE to perform the work described below.
- C. By signing below, the above-named CBE is committing to perform the work described below.
- D. By signing below, the bidder/offeror and CBE affirm that if the CBE subcontracts any of the work described below, it may only subcontract that work to another CBE.

**WORK TO BE PERFORMED BY CBE FIRM(S)**

Description	NAICS <sup>1</sup>	CBE Contract Amount <sup>2</sup>	CBE Percentage of Total Project Value
Signals & ITS	541330	TBD	8%

**AFFIRMATION:** I hereby affirm that the information above is true and correct.

**CBE Firm/Supplier Authorized Representative**

**Signature:** [Signature] **Title:** President **Date:** 01/17/2022

**Bidder/Offeror Authorized Representative**

**Signature:** [Signature] **Title:** President **Date:** 01/17/2022

<sup>1</sup> Visit <https://www.census.gov/eos/www/naics/> to search and identify the correct NAICS codes. Match each type of work with the most appropriate NAICS code.

<sup>2</sup> To be provided only when the solicitation requires that the bidder/offeror include a dollar amount in its bid/offer.

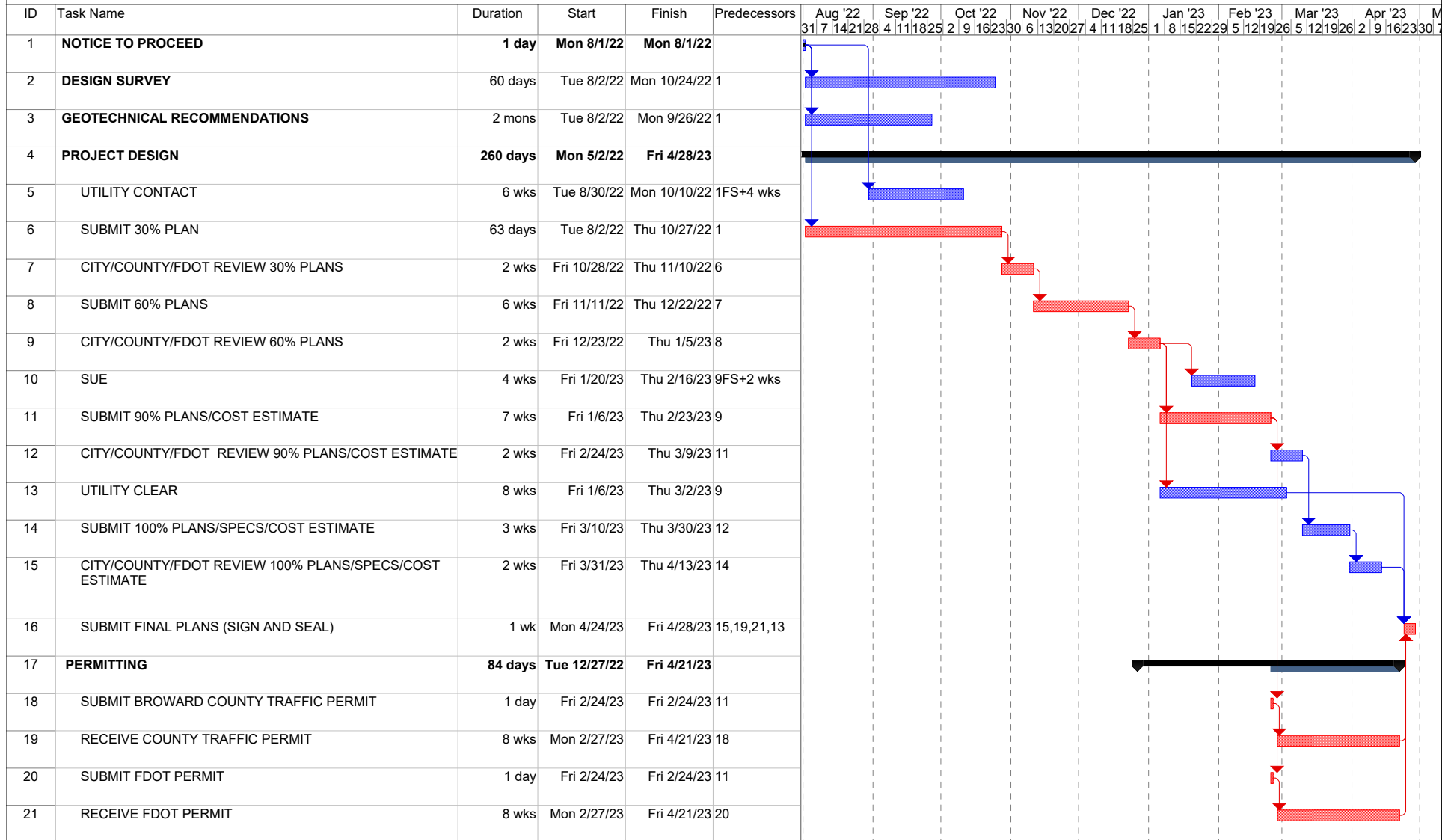
*In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.*

**Rev.: April 2020**

**Compliance Form No. 011**

# EXHIBIT "G"

## City of Oakland Park Mast Arm Traffic Signals



City of Oakland Park RJB No. xxxxxx June 17, 2022	Task		Rolled Up Milestone		Inactive Milestone		Start-only	
	Critical Task		Rolled Up Progress		Inactive Summary		Finish-only	
	Milestone		Split		Manual Task		External Tasks	
	Summary		External Tasks		Duration-only		External Milestone	
	Rolled Up Task		Project Summary		Manual Summary Rollup		Progress	
	Rolled Up Critical Task		Group By Summary		Manual Summary			