

**RESOLUTION No. 17-109**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, PURSUANT TO SECTION 2-321 OF THE CITY CODE OF ORDINANCES, WAIVING THE COMPETITIVE BIDDING REQUIREMENTS IN FAVOR OF EAC CONSULTING, INC.; APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DORAL AND EAC CONSULTING, INC. FOR THE PROVISION OF PROFESSIONAL ENGINEERING SERVICES FOR THE UPDATE AND PERMITTING OF CONSTRUCTION PLANS AND CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR THE ROADWAY IMPROVEMENTS ALONG NW 41 STREET FROM NW 79 AVENUE TO NW 87 AVENUE IN AN AMOUNT NOT EXCEED \$194,916.71; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, in response to Request For Qualifications #2009-06, "N.W. 41 Street Engineering Design and Construction Administration," the City of Doral Public received eighteen (18) proposals by the May 21, 2009 11:00 a.m. deadline; and

**WHEREAS**, Staff requested that the City Council authorize the City Manager to negotiate and enter into agreement with EAC Consulting, Inc. (EAC) for the provision of engineering design and construction administration services for the N.W. 41 Street in an amount not to exceed \$275,000.00; and

**WHEREAS**, City Council approved Staff's recommendation awarding EAC with RFQ #2009-06 as shown in Resolution No. 09-79 (attached); and

**WHEREAS**, EAC developed and submitted 100% Design Plans for review on March 18, 2011 to the PWD; and

**WHEREAS**, Construction of the project was halted because of the pending adjacent development on the north side of the NW 41 Street corridor; and

**WHEREAS**, Staff requested a proposal from EAC to update the design plans already submitted, necessary permitting, and CEI services in order to advertise the project for construction; and

**WHEREAS**, Section 2-321 of the City Code of Ordinances provides the competitive bidding procedures outlined in this article upon the recommendation of the city manager that it is in the best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services or other factors; and

**WHEREAS**, in light of EAC's past involvement with the project and the difficulty in having different engineers complete the required work, the City Manager has recommended that it is in the City's best interest to waive the competitive bid procedures in favor of EAC; and

**WHEREAS**, Staff recommends that the City Council approve the Professional Services Agreement with EAC Consulting, Inc. to proceed with the design services and for the update and permitting of construction plans and CEI services for the roadway improvements along NW 41 Street from NW 79 Avenue to NW 87 Avenue; in an amount not to exceed \$194,916.71.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

**Section 2. Waiver.** Pursuant to section 2-321 of the City Code of Ordinances, and upon the recommendation of the City Manager, the City's competitive bidding procedures are hereby waived in favor of EAC Consulting.

**Section 3. Approval.** The Professional Services Agreement between the City of Doral and EAC Consulting, Inc. for design services for the update and permitting of construction plans and CEI services for the roadway improvements along NW 41 Street from NW 79 Avenue to NW 87 Avenue, in an amount not to exceed \$194,916.71, a copy which is attached hereto as Exhibit "A", which is incorporated herein and made a part hereof by this reference, is hereby approved.

**Section 4. Authorization.** The City Manager is authorized to execute the professional services agreement and expend budgeted funds on the behalf of the City in furtherance hereof.

**Section 5. Implementation.** The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Rodriguez who moved its adoption. The motion was seconded by Vice Mayor Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Claudia Mariaca	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED this 14 day of June, 2017.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, CMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
WEISS, SEROTA, HELFMAN, COLE & BIERMAN, P.L.  
CITY ATTORNEY

# EXHIBIT “A”

**PROFESSIONAL SERVICES FINAL AGREEMENT**

**Between**

**CITY OF DORAL, FL**

**And**

**EAC Consulting, Inc.**

**THIS AGREEMENT** is made between CITY OF DORAL, FLORIDA, a Florida municipal corporation, (hereinafter referred to as the "CITY") and EAC Consulting, Inc., a Florida corporation authorized to do business in the State of Florida, (hereinafter referred to as the "CONSULTANT"), whose principal place of business is 815 N.W. 57<sup>th</sup> Avenue, Suite 402, Miami, FL 33126. CITY and CONSULTANT may be referred to individually as "Party" or collectively as "Parties."

**RECITALS**

**WHEREAS**, EAC Consulting, Inc. developed the 100% design plans for the roadway improvements along N.W. 41 Street between N.W. 79 Avenue and N.W. 87 that was adopted by the CITY Council in June of 2009 as shown in Resolution No. 09-79; and

**WHEREAS**, the CONSULTANT is willing and able to perform such professional, services for the CITY within the basic terms and conditions set forth in this agreement (hereinafter referred to as "Professional Services Agreement or Agreement"); and

**WHEREAS**, the purpose of this Professional Services Agreement is to authorize the Consultant to perform a Specific Project and set forth certain general terms and conditions, which shall govern the relationship between CITY and CONSULTANT and which shall be incorporated into subsequent supplemental agreements or services when required.

**AGREEMENT**

**NOW THEREFORE**, in consideration of the foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual terms, conditions, promises and covenants set forth below, and other good and valuable consideration, the sufficiency of which the Parties hereby acknowledge, the CITY and CONSULTANT agree as follows:

## **SECTION 1. DEFINITIONS**

The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

1.1 **Compensation:** The total amount paid by the CITY for the CONSULTANT'S professional services for the project, exclusive of reimbursable expenses.

1.2 **Reimbursable Expenses:** the direct non-salary expenses directly attributable to the Project. Reimbursable expenses include long-distance communications, application and permit fees paid for securing approval of authorities having jurisdiction over the Specific Project; actual cost of reproduction, printing, binding and photocopying of drawings, specifications, renderings and other documents; postage; travel expenses; and Subconsultant's fees.

1.3 **Subconsultant Fee:** the direct and actual cost of the Subconsultant with no markup, as reflected by actual invoices of the Subconsultant.

1.4 **Travel Expenses:** Travel expenses, whether within or outside of Miami-Dade County, and whether to the Specific Project or otherwise, shall not be reimbursed unless CONSULTANT has secured advance written authorization for such travel from the CITY Manager. All approved travel expenses will be reimbursed in accordance with the CITY's adopted travel policy.

## **SECTION 2. PROJECTS SCOPE OF SERVICES**

2.1 The CONSULTANT shall provide professional design and construction engineering inspection services to the CITY for the roadway improvements proposed along N.W. 41 Street between N.W. 79 Avenue and N.W. 87 Avenue. The attached proposal from EAC Consulting, Inc. dated May 24, 2017, details the Scope of services and shall be incorporated in this Agreement by this reference.

2.2 The professional services to be rendered by the CONSULTANT shall commence subsequent to the execution of this Agreement. Performance of work by CONSULTANT prior to execution of this Agreement shall be at Consultant's sole risk. Upon the commencement of the term of this Agreement, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without

interruption. The schedule requires the design scope of work to be performed within 90 calendar days. All limitations of time set forth in this Work Order are of the essence.

2.3 The CONSULTANT shall submit to the CITY all final deliverables within the Contract Time as noted in the each Project Agreement and associated CONSULTANT Proposal.

2.4 Unless otherwise excused by the CITY in writing, in the event that the CONSULTANT fails to meet to the contract time for completion of services as determined by the Project Schedule, the CONSULTANT shall pay to the CITY the sum of dollars identified below per day for each and every calendar day unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$200.00 per day. The CONSULTANT may claim extension if the factors involved are not under their direct control. Any sums due and payable hereunder by the CONSULTANT shall be payable, not as a penalty, but as liquidated damages representing and estimate at or before the time of executing this Agreement. When the CITY reasonably believes that completion will be inexcusably delayed, the CITY shall be entitled, but not required, to withhold from any amounts otherwise due the CONSULTANT an amount then believed by the CITY to be adequate to recover liquidated damages applicable to such delays. If and when the CONSULTANT overcomes the delay in achieving completion, or any part thereof, for which the CITY has withheld payment, the CITY shall promptly release to the CONSULTANT those funds withheld, but no longer applicable, as liquidated damages.

### **SECTION 3. TERM/TERMINATION/SUSPENSION**

3.1 **Term of Agreement:** This Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect for a period of 330 calendar days, unless further extended by option or until terminated pursuant to Section 3.2 or other applicable sections of this Agreement.

3.2 **Termination for Convenience:** This Agreement may be terminated by the CITY for convenience upon thirty (30) calendar days written notice to the CONSULTANT or on seven (7) days notice with cause, which cause shall be defined as substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of termination for convenience, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit to the CITY its invoice for final



payment and reimbursement and the invoice shall comply with the provisions of Paragraph 4.1 of this Agreement. Under no circumstances shall the CITY make any payment to the CONSULTANT for services which have not been performed.

3.3 **For Cause:** This Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Agreement or causes it to be terminated by the CITY, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the CITY for cause and it is subsequently determined by a court by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 3.2 of this Agreement and the provision of Section 3.2 shall apply.

3.4 **Assignment Upon Termination:** Upon termination of a Project Agreement, a copy of all of the Consultant's work product shall become the property of the CITY and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Agreement. Further, upon the CITY'S request, the CONSULTANT shall assign its rights, title and interest under any subcontractor's agreements to the CITY.

3.8 **Suspension for Convenience:** The CITY shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the CITY, the CONSULTANT shall immediately comply with same. In the event the CITY directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the CITY shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

#### **SECTION 4. BILLING & PAYMENT TO THE CONSULTANT**

4.1 **Billing:** CONSULTANT shall submit invoices on a monthly basis and in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished within the invoice period. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. The statement shall show a summary of fees with accrual

of the total and credits for portions previously paid by the CITY. The CITY shall pay CONSULTANT within thirty (30) calendar days of approval by the CITY Manager of any invoices submitted by CONSULTANT to the CITY.

4.2 **Disputed Invoices:** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY shall pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

4.3 **Suspension of Payment:** In the event that the CITY becomes credibly informed that any representations of the CONSULTANT are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Agreement, and the cause thereof, is corrected to the CITY's reasonable satisfaction.

4.4 **Retainage:** The CITY reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the CONSULTANT until the project is completed. For projects that are divided into several phases, any retainage shall be withheld and released individually for each phase of the project. Said retainage may be withheld at the sole discretion of the CITY Manager and as security for the successful completion of the CONSULTANT'S duties and responsibilities under the Project Agreement.

4.5 **Final Payment:** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

## **SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES**

5.1 **Changes Permitted.** Changes in the Scope of Services of this Agreement consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the CITY by Change Order without invalidating this Agreement.

5.2 **Change Order Defined.** Change Order shall mean a written order to the CONSULTANT executed by the CITY, issued after execution of the Agreement, authorizing and directing a change in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the CITY and the CONSULTANT shall constitute conclusive evidence of the Consultant's agreement to the ordered changes in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The CONSULTANT, by executing the Change Order, waives and forever releases any claim against the CITY for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order.

5.4 **Modifications to Scope of Services:** The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Professional Services Agreement, prior to any deviation from the terms of this Agreement, including the initiation of any extra work.

## **SECTION 6. SURVIVAL OF PROVISIONS**

6.1 Any Change Orders that require acts beyond the date of the term of this agreement, shall survive termination of this agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

## **SECTION 7. CITY'S RESPONSIBILITIES**

7.1 Assist CONSULTANT by placing at its disposal all available information as may be requested in writing by the CONSULTANT and allow reasonable access to all pertinent information relating to the services to be performed by CONSULTANT.

7.2 Furnish to CONSULTANT, at the CONSULTANT'S written request, all available

maps, plans, existing studies, reports and other data pertinent to the services to be provided by CONSULTANT, in possession of the CITY.

7.3 Arrange for access to and make all provisions for CONSULTANT to enter upon public property as required for CONSULTANT to perform services.

## **SECTION 8. CODE OF ETHICS**

8.1 The code of ethics of the Florida Engineering Society shall be incorporated in this Agreement by this reference.

8.2 CONSULTANT warrants and represents that its employees shall abide by the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes.

## **SECTION 9. POLICY OF NON-DISCRIMINATION**

9.1 The CONSULTANT shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work and shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of work under this Agreement.

## **SECTION 10. OWNERSHIP OF DOCUMENTS/DELIVERABLES**

10.1 All finished or unfinished documents, including but not limited to, detailed reports, studies, plans, drawings, surveys, maps, models, photographs, specifications, digital files, and all other data prepared for the CITY or furnished by the CONSULTANT pursuant to this Agreement, shall become the property of the CITY, whether the Project is completed or not, and shall be delivered by CONSULTANT to the CITY within five (5) calendar days after receipt of written notice requesting delivery of said documents or digital files. The CONSULTANT shall have the right to keep one record set of the documents upon completion of the Project, however, in no event shall the CONSULTANT, without the CITY'S prior written authorization, use, or permit to be used, any of the documents except for client or educational presentations or seminar use.

10.2 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, digital files or other data, entered into by the CONSULTANT for the Project shall provide that all such documents and rights obtained by virtue of such contracts shall become the property of the CITY.

10.3 All final plans and documents prepared by the CONSULTANT shall bear the endorsement and seal of a person duly registered as a Professional Engineer, Architect, Landscape Architect, Professional Geologist, or Land Surveyor, as appropriate, in the State of Florida and date approved and/or sealed.

10.4 All deliverables should be provided in hard copy format as well as electronic format to the CITY. Drawings should be provided in CADD, spread sheets in Excel, and written documentation should be provided in Microsoft Word. The date of submittal to the CITY shall be deemed to be the later of delivery of hard copies and delivery of electronic copies as applicable.

#### **SECTION 11. RECORDS/AUDITS**

11.1 CONSULTANT shall maintain and require Sub consultants to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Project. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the CITY Manager or any authorized CITY representative with reasonable notice and shall be kept for a period of three (3) years after the completion of each Project Agreement. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the CITY of any fees or expenses based upon such entries. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the CITY.

11.2 The CONSULTANT shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONSULTANT to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the CITY of this Agreement.

#### **SECTION 12. NO CONTINGENT FEE**

12.1 CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, 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. In the event the CONSULTANT violates this provision, the

CITY shall have the right to terminate this Agreement or any Project Agreement, without liability, and at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

### **SECTION 13. INDEPENDENT CONTRACTOR**

13.1 The CONSULTANT is an independent contractor under this Agreement. Personal services provided by the CONSULTANT shall be by employees of the CONSULTANT and subject to supervision by the CONSULTANT, and not as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement or any Project Agreements shall be those of the CONSULTANT.

### **SECTION 14. ASSIGNMENT; AMENDMENTS**

14.1 This Agreement shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT, without the prior written consent of the CITY.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

### **SECTION 15. INDEMNIFICATION/HOLD HARMLESS**

15.1 Pursuant to Section 725.08, Florida Statutes, the CONSULTANT shall indemnify and hold harmless the CITY and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent such liabilities, damages, losses, and costs are caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT or any persons employed or utilized by the CONSULTANT in the performance of this or any Project Agreement.

### **SECTION 16. INSURANCE**

The CONSULTANT shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the CITY against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the CITY, its officials, employees, agents and volunteers. Any insurance maintained

by the CITY shall be in excess of the CONSULTANT'S insurance and shall not contribute to the CONSULTANT'S insurance. The insurance coverage's shall include a minimum of: See Insurance Requirements.

#### **SECTION 17. REPRESENTATIVE OF CITY AND CONSULTANT**

17.1 **CITY Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The CITY designates the CITY Manager or his designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONSULTANT Representative.** CONSULTANT shall inform the CITY Representative, in writing, of the representative of the CONSULTANT to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

#### **SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL**

18.1 If either the CITY or CONSULTANT is required to enforce the terms of this Agreement or any Project Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement or Project Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

#### **SECTION 19. PRIORITY OF AUTHORITY OF INSTRUMENTS**

19.1 Accordingly it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements whether oral or written.

#### **SECTION 20. CONSULTANT'S RESPONSIBILITIES**

20.1 Any and all drawings, studies, plans, specifications, or other construction or contract documents prepared by the CONSULTANT shall be accurate, coordinated and adequate for construction and shall comply with all applicable CITY Codes, state and federal laws, rules and regulations.

20.2 The CONSULTANT shall exercise the same degree of care, skill and diligence in the performance of the services for this Agreement as is ordinarily provided by a professional engineer, architect, landscape architect, surveyor or mapper under similar circumstances. If at any time during the term of any Project Agreement or the construction of the Project for which the CONSULTANT has provided engineering, architectural landscape architectural, surveying or mapping services under a prior Project Agreement, it is determined that the CONSULTANT'S documents are incorrect, defective or fail to conform to the Scope of Services of the particular Project, upon written notification from the CITY, the CONSULTANT shall immediately proceed to correct the work, re-perform services which failed to satisfy the foregoing standard of care, and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction and reimbursements to the CITY for any other services and expenses made necessary thereby, save and expect any costs and expenses which the CITY would have otherwise paid absent the CONSULTANT'S error or omission. The CITY'S rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, the Project Agreement, by law, equity or otherwise.

20.3 The Consultant shall, all times during the term of the Agreement, maintain in good standing all required licenses, certifications and permits required under federal, state, and local laws necessary to perform the services.

20.4 The CONSULTANT'S obligations under Paragraph 20.2 of this Agreement shall survive termination of this Agreement.

## **SECTION 21. SUBCONSULTANTS**

21.1 In the event the CONSULTANT requires the services of any Subconsultants or other professional associates in connection with services covered by this Agreement, the CONSULTANT must secure the prior written approval of the CITY Manager. The CONSULTANT shall use his/her best efforts to utilize Subconsultants whose principal place of business is located within the CITY or Miami-Dade County, Florida.

21.2 Any subcontract with a Subconsultant shall afford to the CONSULTANT rights against the Subconsultant which correspond to those rights afforded to the CITY against the CONSULTANT herein, including but not limited to those rights of termination as set forth herein.

21.3 No reimbursement shall be made to the CONSULTANT for any subconsultants that have not been previously approved by the CITY for use by the CONSULTANT.



**SECTION 22. NOTICES**

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

**FOR CONSULTANT:**

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

\_\_\_\_\_  
Telephone: ( )

Facsimile: ( )

**FOR CITY:**

CITY of Doral  
Attention: Mr. Edward Rojas, City Manager  
8401 NW 53<sup>rd</sup> Terrace  
Doral, FL 33166  
T (305) 593-6725  
F (305) 593-6619

**WITH A COPY TO:**

City Attorney  
Daniel A. Esino, Esq.  
Weiss Serota Helfman Pastoriza Cole & Boniske, PL  
2525 Ponce De Leon Boulevard, Suite 700  
Coral Gables, FL 33134

**SECTION 23. TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The Agreement's contract prices and any additions shall be adjusted to exclude any significant sums

by which the CITY determines the Project's contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one year following the end of each Project Agreement.

**SECTION 24. CONSENT TO JURISDICTION**

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement or any Project Agreement. Venue of any action to enforce this Agreement or any Project Agreement shall be in Broward County, Florida.

**SECTION 25. GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

**SECTION 26. HEADINGS**

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

**SECTION 27. EXHIBITS**

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are incorporated by reference.

**SECTION 28. SEVERABILITY**

If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

**SECTION 29. COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be deemed an

original and such counterparts shall constitute one and the same instrument.

**[THIS AREA INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]**

**IN WITNESS WHEREOF**, the parties execute this Agreement on the respective dates under each signature: The CITY, signing by and through its CITY Manager, attested to by its CITY Clerk, duly authorized to execute same and by CONSULTANT by and through its \_\_\_\_\_, whose representative has been duly authorized to execute same through a resolution of the corporation or partnership.

**ATTEST:**

\_\_\_\_\_  
Connie Diaz, City Clerk

\_\_\_\_\_  
Edward A. Rojas, City Manager

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

Approved as to form and legality  
for the sole use and reliance of the  
City of Doral:

\_\_\_\_\_  
Weiss Serota Helfman  
Pastoriza Cole & Boniske, P.L.  
City Attorneys

**ATTEST:**

**CONSULTANT**

\_\_\_\_\_

Secretary

\_\_\_\_\_

By: \_\_\_\_\_

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

**WITNESSES:**

\_\_\_\_\_

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

\_\_\_\_\_

Print Name: