RESOLUTION NO. R-2023-277

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, RANKING CONSULTING ENGINEERING COMPANIES AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE CONTINUING CONSULTING ENGINEERING CONTRACTS WITH THE EIGHT HIGHEST RANKED CONSULTANTS TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATED TO INFRASTRUCTURE PROJECTS.

WHEREAS, existing continuing engineering contracts related to infrastructure (water, sewer, reuse, and stormwater) projects were executed with consultants in October 2017, renewed for a two-year term in 2021, and will expire in October 2023; and

WHEREAS, the Department of Public Utilities ("Department") has a continuing need to retain professional services from engineering consulting firms to address necessary capital projects in an expeditious and effective manner; and

WHEREAS, the Department and Office of Procurement and Contract Compliance ("Procurement") followed the procedures established in Florida Statute 287.055, Consultants' Competitive Negotiation Act ("CCNA"), and the City's Procurement Ordinance, to advertise for statements of qualifications for professional consulting engineering services for infrastructure projects; and

WHEREAS, on December 28, 2022, Request for Qualifications Number RFQ-042-23-JJ ("RFQ") was electronically advertised on OpenGov.com to solicit the desired professional engineering consulting services in accordance with Section 38.43(A) of the Procurement Code; and

WHEREAS, on February 28, 2023, Procurement received statements of qualification packages from 19 engineering firms for professional consulting engineering services related to infrastructure projects; and

WHEREAS, the 19 engineering companies that submitted statements of qualifications were:

1. 300 Engineering Group, LLC
2. BCC Engineering LLC
3. Calvin, Giordano & Associates, Inc.
4. Carollo Engineers, Inc.
5. CDM Smith, Inc.

6. CES Consultants, Inc.
7. Chen Moore and Associates
8. Craven Thompson & Associates, Inc.
9. EAC Consulting, Inc.
10. Gannett Fleming, Inc.
11. HBC Engineering Company
12. HDR Engineering, Inc.
13. KEITH
14. Kimley-Horn and Associates, Inc.
15. R.J. Behar & Company, Inc.
16. Stantec Consulting Services, Inc.
17. Tetra Tech, Inc.
18. Wade Trim, Inc.
19. Water Resources Management Associates, Inc.; and

WHEREAS, Procurement assembled a diverse selection committee comprised of five qualified City staff; and

WHEREAS, members of the selection committee met on June 20, 2023 to evaluate statements of qualifications and to rank participating consulting firms; and

WHEREAS, selection committee staff determined that it is in the City's best interest to select eight firms to address future capital improvement projects in a more efficient manner; and

WHEREAS, selection committee members completed the evaluation process after determining that oral presentations were unnecessary, and ranked the firms following the stipulated guidelines in the RFQ; and

WHEREAS, the following table describes the overall and final results of the top eight firms ranked from the evaluation process:

CITY OF HOLLYWOOD – CONSULTING ENGINEERING SERVICES FOR INFRASTRUCTURE PROJECTS (WATER, SEWER, REUSE AND STORMWATER):		
COMPANY	**TOTAL SCORE (MAX SCORE 100)**	**RANKING**
Tetra Tech, Inc.	95.2	1st
CDM Smith, Inc.	94.2	2nd
Craven Thompson & Associates, Inc.	91.0	3rd
Chen Moore and Associates	90.2	4th
Stantec Consulting Services, Inc.	89.4	5th
CES Consultants, Inc.	88.4	6th (tie)

Gannett Fleming, Inc.	88.4	6th (tie)
HDR Engineering, Inc.	86.2	8th

; and

WHEREAS, professional engineering consulting services will be provided by the selected consulting firms on an as-needed basis; and

WHEREAS, the Director of Public Utilities and the Chief Procurement Officer recommend that the City Commission authorize the appropriate City officials to execute continuing consulting engineering contracts with the eight highest-ranked consulting firms to provide professional engineering services related to infrastructure (water, sewer, reuse, and stormwater) projects, on an as-needed basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That the City Commission ranks the top eight consulting engineering companies as follows:

1. Tetra Tech, Inc.
2. CDM Smith, Inc.
3. Craven Thompson & Associates, Inc.
4. Chen Moore and Associates
5. Stantec Consulting Services, Inc.
6. CES Consultants, Inc.
6. Gannett Fleming, Inc.
8. HDR Engineering, Inc.

Section 3: That it authorizes the appropriate City officials to execute continuing consulting engineering contracts with the eight highest ranked consultants, together with such non-material changes as may be subsequently agreed to by the City Manager and approved as to form by the City Attorney.

Section 4: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, RANKING CONSULTING ENGINEERING COMPANIES AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE CONTINUING CONSULTING ENGINEERING CONTRACTS WITH THE EIGHT HIGHEST RANKED CONSULTANTS TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATED TO INFRASTRUCTURE PROJECTS.

PASSED AND ADOPTED this 6 day of September, 2023.

Adriana Quintana for
JOSH LEVY, MAYOR

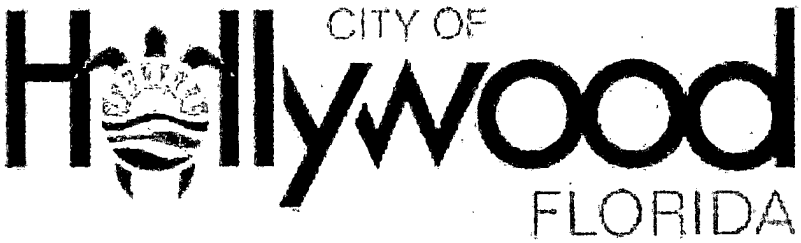
ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM:

DOUGLAS R. GONZALES
CITY ATTORNEY

CITY OF HOLLYWOOD, FLORIDA



PROFESSIONAL SERVICES AGREEMENT

FOR

CONTINUING CONSULTING ENGINEERING SERVICES INFRASTRUCTURE (WATER, SEWER, REUSE, AND STORMWATER) PROJECTS

DEPARTMENT OF PUBLIC UTILITIES
CITY OF HOLLYWOOD

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this __ day of _____, 2023 by and between the City of Hollywood, a municipal corporation of the State of Florida ("City") and _____, a Florida corporation authorized to do business in the State of Florida ("Consultant").

RECITALS

WHEREAS, on August 30, 2023, the City Commission passed and adopted Resolution No. R-_____, authorizing the appropriate City officials to negotiate an agreement with Consultant to provide Continuing Consulting Engineering Services for Infrastructure (Water, Sewer, Reuse, and Stormwater) Projects; and

WHEREAS, the parties have negotiated this Agreement.

NOW, THERERFORE, that the City and the Consultant, for the considerations herein set forth, agree as follows:

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SCOPE OF WORK

1. CONSULTANT shall provide to CITY professional engineering (including design, planning, permit application and construction administration) services in all phases of the work to which this Agreement applies.

2. The exact nature and magnitude of the required professional services cannot be defined precisely at the time of entering into this Agreement. The services to be performed by CONSULTANT will be set forth in the scope of services described in Work Orders to be issued by CITY from time to time.

3. The services to be provided by CONSULTANT are generally described herein. The CITY reserves the right to add or delete component parts when preparing Work Orders or to issue work in phases. The Work Orders, as issued, represent the entire scope of services between CITY and CONSULTANT.

4. Work to be performed under this contract will be authorized on a case-by-case basis through the issuance of individual Work Orders. A detailed scope of services will be incorporated into each Work Order. A written Work Order shall be issued approving a proposal for any Work Order under this Agreement. Work Orders shall be considered part of this agreement, and will be appended hereto.

5. At the CITY's Request for Proposal, CONSULTANT shall provide a written description of services proposed to be provided under a Work Order. CONSULTANT shall respond to Requests for Proposal in a timely manner.

6. CONSULTANT's Work Order Proposal shall be based on the CITY's Request for Proposal, discussions with CITY's staff, CONSULTANT's knowledge of similar work, local conditions, and field investigations. As a minimum, the proposal shall consist of a background of problem, scope of work, schedule and cost of services. To the extent applicable, CONSULTANT's Proposal shall be prepared substantially in accordance with this Agreement. The Work Order proposal shall provide comments on the scope of services, as well as a detailed staff hour estimate where appropriate, a fee proposal in standard format, and support for all costs contained in the fee proposal. The supporting information must be adequate to determine a factual basis for all costs contained in the proposal.

7. Sufficient documentation must be provided with the fee proposal to support the basis for all proposed direct expenses. Written quotes from vendors, invoices reflecting prices paid on previous purchases, copies of catalog pages, etc. may be used as support for the proposed prices. Verbal quotes from vendors may be acceptable if adequate supporting documentation (name and telephone numbers of the person furnishing the price quote) is provided. The acquisition of any individual item costing more than $1,000 shall be supported by at least two quotes, when competition exists.

8. Each Work Order shall be subject to a separate written "Notice to Proceed" to be issued by CITY. Work shall not commence until issuance of the appropriate written "Notice to Proceed."

9. An amendment to a Work Order must be completed if the project schedule, project scope or the construction budget is changed. This document will also be used to authorize additional services if required.

10. Services by Consultant's Own Staff: The services to be performed hereunder shall be performed by CONSULTANT's own staff, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by CONSULTANT, as independent consultant or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting an agreement between the CITY and any such other person or firm. Nor shall anything contained herein be deemed to give any such party or any third

party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

11. CONSULTANT shall cooperate with CITY, its designees, and Contractor in furthering the interests of CITY.

12. CONSULTANT shall assist and support the Department of Public Utilities with the research, upgrades, acquisition, and implementation of a departmental-wide asset management software and the likes.

13. The fees for Professional Services for each Authorization to Proceed shall be determined by one of the following two methods or a combination thereof, as

(1) A Lump Sum (See Section 5.01A), if agreed upon by the Director of the Department and the Consultant.

(2) Hourly Rate, as defined and at the rates set forth in Section 5.01C., is preferred.

ARTICLE 1
DEFINITIONS

1.01 ADDITIONAL SERVICES: Those design services defined in Section 2.02

1.02 BASIC SERVICES: Those architectural design services defined in Section 2.01.

1.03 CITY: The City of Hollywood, Florida, a Florida Municipal Corporation.

1.04 CITY MANAGER: The duly appointed chief executive officer of the City.

1.05 CONSULTANT: The individual, partnership, corporation, association, joint venture, or any combination thereof, of properly registered professional architects and/or engineers, which has entered into the agreement to provide professional services to the City. The CONSULTANT for this agreement is Hazen and Sawyer, P.C.

1.06 CONSULTANT'S AUTHORIZATION TO PROCEED: A document issued by the City to the Consultant authorizing the performance of specific professional services, and stating the time for completion and the amount of fee authorized for such services.

1.07 CONTRACTOR OR CONSTRUCTION MANAGER (CM): An individual, partnership, corporation, association, joint venture, or any combination thereof, which has entered into a contract with the City for construction of City of Hollywood, Florida, facilities and incidents thereto.

1.08 DIRECTOR: The Director of the Department of Public Utilities of the City of Hollywood, Florida, having the authority and responsibility for management of the specific projects authorized under this Agreement.

1.09 INSPECTOR: An employee of the City of Hollywood, Florida, assigned by the DIRECTOR to make observations of work performed by a Contractor.

1.10 PROJECT: The construction, alteration or repair, and all services and incidents thereto, of a CITY of Hollywood, Florida, facility as contemplated and budgeted by the City.

1.11 PROJECT MANAGER: An employee of the City of Hollywood, expressly designated as PROJECT MANAGER in writing by the DIRECTOR, who is the representative of the City, concerning the Contract Documents.

ARTICLE 2
CONSULTANT SERVICES AND RESPONSIBILITIES

2.01 BASIC SERVICES:

A full range of professional engineering design services is needed to support the design and construction of various Department of Public Utilities projects. The City will provide a scope of services and execute a separate addendum, or "Work Order" to the contract for each specific request. Consultant services will include, but not be limited to, the conceptual, preliminary and final design, permitting, construction administration and management, studies, reviews and other services necessary to implement the City's proposed Capital Improvement Program, and such incidental projects as are necessary for daily operation. The City estimates that the CIP will encompass over $100 million in construction in the next five years. In any given year, the amount of work may vary between types of projects and total funding. The contracts to be issued under the agreements for general consulting services are planned to provide services for the areas indicated below. The listing of specific projects following each area encompassed in the City's Capital Improvement Program for the Department of Public Utilities is representative, but not a complete record, of all such projects potentially available under this contract:

Water, Sewer, Reuse and Stormwater Infrastructure Projects: These services would generally include projects for the potable water transmission and distribution system, wastewater collection system, reuse distribution system and stormwater systems. Projects under this contract would include, but not be limited to, the following: evaluation, hydraulic modeling, pre-design, design, improvements, permitting, upgrades, maintenance, and asset management for existing and/or proposed sewer lift stations, stormwater pump stations and structures, pipelines associated with water, reuse, stormwater and sewer networks. Stormwater projects do need the consultants with verifiable experience in the Southeast Florida Regional Climate Change, including identification and mitigation of sea level rise flood vulnerabilities compounded with tidal variations and storm surge probability, green infrastructure design, sustainability, climate resilience and/or any other current environmental issues. Services for these projects would include, but not be limited to, study, design, permitting, construction management and administration, field services and support of grant application.

Water Treatment Plant and Wastewater Treatment Plant Projects: It is not expected that these consultants will be utilized for Water Treatment Plant and Wastewater Treatment Plant projects on a routine basis. At the City's sole discretion, the City may utilize these consultants to perform work related to Water Treatment Plant and Wastewater Treatment Plant projects. Projects under this contract would include, but not be limited to, the following: evaluation, pre-design, design, improvements, permitting and upgrades for facilities in water treatment plant and wastewater treatment plant. Services for these projects would include, but not be limited to, study, design, permitting, construction management and administration, field services and support of grant application.

Quality Assurance, Quality Control and Value Engineering Services: The general consulting services could include, but not be limited to, value engineering, constructability reviews, and quality assurance/quality control review of projects to be let by the City. Respondents awarded a contract for services under this section shall be limited to receiving an agreement for services only within this area. This approach is to limit the possibility of a conflict of interest in the review of a project.

List of Projects included in this RFQ: At the City's sole discretion, the following projects may be awarded to consultants selected in this RFQ.

- Asset Management related to Department of Public Utilities assets.
- Grant application assistance and grant management

- Lead Copper Rule Revision Compliance
- Sewer Lift Station E-3 Upgrade
- Sewer Lift Station E-6 Upgrade
- Parallel Force Main to Taft Street Force Main (Depending on decision and planning as needed)
- Force Main improvements in Emerald Hills area
- Stormwater Pump Stations Upgrade Program (up to 10 stormwater pump stations upgrade, in one project or multiple projects, depending on City's stormwater master plan recommendation, need and funding availability)
- New Stormwater Pump Stations SW-11,SW-12, SW-13, SW-14, SW-15 (in one project or multiple projects, depending on City's stormwater master plan recommendation, need and funding availability)
- Hollywood Lakes Neighborhood Exfiltration Improvements (including water and wastewater utilities in the same area)
- Hollywood Hills Neighborhood Exfiltration Improvements (including water and wastewater utilities in the same area)

The City will issue work orders based on the type of work desired, timing and the firm deemed most capable of providing the services by the City staff. There are no guarantees of a specific volume or amount of work, nor that all contracts will receive the same amount in a given year, or over the life of the agreements.

The contracts will be administered by the Department of Public Utilities, Engineering Support Services Division (ESSD). Each work order will have an assigned Project Manager.

2.02 ADDITIONAL SERVICES:

2.02A Additional Services as listed below are normally considered to be beyond the scope of the Basic Services as defined in this Agreement, and if authorized by an appropriate written authorization, will be compensated for as provided under Section 5.02.

1) Professional detailed Estimates of Construction Cost consisting of quantity surveys itemizing all material, equipment and labor required for a project.

2) Planning surveys, or comparative studies of prospective sites.

3) Investigation and making detailed appraisals and valuations of existing facilities, and surveys or inventories in connection with construction performed by the City.

4) The services of one or more full-time Project Field Representatives during construction.

5) Extended assistance beyond that provided under Basic Services for the initial start-up, testing, adjusting and balancing of any equipment or system; extended training of City's personnel in operation and maintenance of equipment and systems, and consultation during such training; and preparation of operating and maintenance manuals, other than those provided by the Contractor, subcontractor, or equipment manufacturer.

6) Consultation concerning replacement of any work damaged or built inconsistently with the Contract Drawings, providing the cause is found by the City to be other than by fault of the Consultant or his/her agents.

7) Making major revisions changing the scope of a project, to drawings and specifications, when such revisions are inconsistent with written approvals or instructions previously given by the City and are due to causes beyond the control of the Consultant. (Major revisions are defined as those changing the scope and/or scheme and/or any significant portion thereof.)

8) Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding, providing, however, that the Consultant cannot testify against the City in any proceeding during the course of this Agreement.

9) Providing services after issuance to the City of the Final Certificate for Payment, following when such payment has been made to the contractor.

10) Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural/engineering practice related to construction.

2.03 REIMBURSABLES:

Reimbursables are those items authorized by the City in addition to the Basic and Additional Services and consist of actual expenditures made by the Consultant and the Consultants' employees, Subconsultants, and Special Subconsultants in the interest of the Work for the following purposes:

a) Identifiable transportation expenses in connection with the Project, subject to the limitations of Section 112.061, Florida Statutes. Transportation expenses to locations outside the Miami-Dade/Broward/Palm Beach County area or from locations outside the Miami-Dade/Broward/Palm Beach County area will not be reimbursed unless specifically pre-authorized in writing by the Project Manager. Such pre-authorization will be subject to the limitations of Section 112.061, Florida Statutes. Transportation expenses within the Miami-Dade/Broward/Palm Beach County area are not reimbursable.

b) Identifiable per diem, meals and lodging, lodging, taxi fares and miscellaneous travel-connected expenses for CONSULTANT's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside Broward County will not be reimbursed. Meals and lodging expenses will not be reimbursed for temporarily relocating CONSULTANT's employees from one of CONSULTANT's offices to another office if the employee is relocated for more than ten (10) consecutive working days. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Howard Johnson or Ramada Inn. Governmental lodging will not be reimbursed within Miami-Dade, Broward or Palm Beach County.

c) Identifiable communication expenses approved by the Project Manager, long distance telephone, courier and express mail between the CONSULTANT's various permanent offices. The CONSULTANT's field office at the Project site is not considered a permanent office.

d) Cost of printing, reproduction or photography, which is required by or of CONSULTANT to deliver services, set forth in this Agreement.

e) Identifiable testing costs approved by Project Manager.

f) All Permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction contractor.

g) Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses and when such agreement has been previously approved in writing by the Director and subject to all budgetary limitations and requirements of Section 2.03 herein.

ARTICLE 3
SUBCONSULTANTS

3.01 DEFINITIONS:

3.01A A Subconsultant is a person or organization of properly registered professional architects and/or engineers, who has entered into a written agreement with the Consultant to furnish professional services for a project or task, described under Basic Services in Section 2.01 herein.

3.01B A Special Subconsultant is a person or organization who has entered into a written agreement with the Consultant to furnish professional services for a project or task described under Additional Services.

3.02 SUBCONSULTANTS' RELATIONS:

3.02A All services provided by the Subconsultants shall be pursuant to appropriate written agreements between the Consultant and the Subconsultants, which shall contain provisions that preserve and protect the rights of the City and the Consultant under this Agreement.

3.02B Nothing contained in this Agreement shall create any contractual or business relationship between the City and the Subconsultants. The Consultant acknowledges that Subconsultants are under his direction, control, supervision, retention and/or discharge.

3.02C The Consultant proposes to utilize the following Subconsultants:

NAME OF FIRM	CONSULTING SERVICE

The Consultant shall not change any Subconsultant without prior approval by the City, in response to a written request from the Consultant stating the reasons for any proposed substitution. Such approval shall not be unreasonably withheld or delayed by the City.

ARTICLE 4
THE CITY'S RESPONSIBILITIES

4.01 INFORMATION FURNISHED:

The City, at its expense and insofar as performance under this Agreement may require, shall furnish the Consultant with the following information or may authorize the Consultant to provide the information as an Additional Reimbursable Service:

4.01A Complete and accurate surveys of sites, giving boundary dimensions, locations of existing structures and/or trees, the grades and lines of street, pavement, and adjoining properties; the rights, restrictions, easements, boundaries, and topographic data of a building site, and such information as it has relative to storm water, communications, sewer, water, gas and electrical services.

4.01B Soil borings or test pits, or other tests when deemed necessary; also, if required, an appropriate professional interpretation thereof and recommendations. The Consultant shall recommend necessary tests to the City.

4.01C Information regarding Project Budget, City and State procedures, guidelines, forms, formats, and assistance required to establish a program as per Section 2.01A.

4.01D Drawings representing as-built conditions at the time of original construction will be furnished to the Consultant; however, they are not warranted to represent conditions as of this date. The Consultant must perform field investigations as necessary in accordance with Article 2.02A(5) to obtain sufficient information to perform his services. Investigative services in excess of "Normal Requirements," as defined, must be authorized in advance.

4.01E The services, information, surveys and reports required by Paragraphs 4.01A through 4.01C, inclusive, shall be furnished at the City's expense, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof, provided the Consultant reviews all of the information provided by the City (such as surveys & soil borings) to determine if additional information and/or testing is required to properly design the project.

4.01F The City shall furnish the above information or authorize the Consultant to provide it as expeditiously as possible for the orderly progress of a project development.

4.02 PROJECT MANAGEMENT:

4.02A The Director of the Department shall act on behalf of the City in all matters pertaining to this Agreement, and with the approval of the City Manager, the Department shall process all Authorizations to Proceed pursuant to the Procurement Code for execution by both the City and the Consultant. The Director of the Department shall approve all invoices for payment to the Consultant.

4.02B The Department shall act as liaison between the Consultant and City. The Director of the Department shall designate a Project Manager to have general responsibility for management of a project or task through all phases. The Project Manager shall meet with the Consultant at periodic intervals throughout the preparation of the Contract Documents to assess the progress of the Work in accordance with approved schedules. The Project Manager shall also examine documents submitted by the Consultant, including invoices, and shall promptly render decisions and/or recommendations pertaining thereto, to avoid unreasonable delay in the progress of the Consultant's work.

4.02C During the construction phase, the Consultant and the Department staff shall assume the responsibilities described in the General Conditions and Supplementary Conditions of the Construction Contract.

4.02D If the City observes or otherwise becomes aware of any fault or defective work in a project, or other nonconformance with the Contract Documents during the construction phases, the City shall give prompt notice thereof to the Consultant.

4.03 LEGAL SERVICES, ETC.:

4.03A The City shall furnish any legal, accounting, insurance counseling, and auditing services that the Consultant may require to ascertain how or for what purposes a Contractor has used the money paid to the Contractor under a Construction Contract, as may be required by the City.

ARTICLE 5
BASIS OF COMPENSATION

5.01 PROFESSIONAL SERVICE FEES:

The City agrees to pay the Consultant, and the Consultant agrees to accept for services rendered pursuant to this Agreement, fees shall be computed on an hourly rate as set forth in Exhibit "A" entitled Rate Schedule and in accordance with Consultant's proposal.

5.02 FEE FOR ADDITIVE ALTERNATES:

The design of additive alternates authorized by the Director of the Department will be considered a Basic Service and the fees for these alternates will be calculated, as mutually agreed by the Director of the Department and the Consultant and approved by the City Manager.

5.03 ADDITIONAL SERVICE/REIMBURSABLES FEE:

The Consultant may be authorized to perform Additional/Reimbursable Services as described under Sections 2.02 and 2.03. The fee for such services will be computed by the Hourly Rate. An independent and detailed Authorization to Proceed shall be required to be executed by the parties. The Authorization to Proceed will specify the fee for such service and upper limit of the fee, which shall not be exceeded, and shall comply with the City's Procurement Code and other applicable laws.

The City will reimburse the Consultant for authorized Reimbursable Services as verified by appropriate bills, invoices, or statements.

5.04 Regardless of the method of compensation elected herein, this agreement and/or "Exhibit(s) A" as applicable, shall include all salary costs which include without limitation: A fringe benefit (e.g., sick leave, vacation, holiday, unemployment taxes, retirement, medical, insurance and unemployment benefits) factor and an overhead factor. At its discretion, the City may request a breakdown of overhead and fringe benefit factors, certified by Florida Certified Public Accountant. Subconsultant salary costs and Reimbursables shall be billed to the City in the actual amount paid by Consultant.

5.05 Absent an amendment to the agreement any maximum amounts stated for compensation, or percentage amounts of compensation, shall not be exceeded. In the event they are so exceeded, the City shall have no liability or responsibility for paying any amount of such excess, which will be at Consultant's own cost and expense.

ARTICLE 6
PAYMENTS TO THE CONSULTANT

6.01 PAYMENT FOR BASIC SERVICES:

Payments for Basic Services may be requested monthly in proportion to services performed during each Phase of the Work and as established by the approved proposal.

Partial payments, corresponding to the percentage of completion of the Project, may be made during Construction Administration, according to the amount paid on account of the Construction Contract. If the Construction Contract Time is extended through no fault of the Consultant, the Consultant shall be compensated for any required professional services and for expenses not otherwise compensated for in connection with such time extensions, in accordance with Section 5.01C and Exhibit "A", and as authorized by an Authorization to Proceed.

Consultant shall invoice the City based upon the Consultant's rate schedule set forth in Exhibit "A". Each invoice shall be due and payable 45 days after the City receives a correct, fully documented invoice, in a form substantially acceptable to the City with all appropriate cost substantiations attached. Invoices shall be sent via email to ECSDPaymentPortal@hollywoodfl.org. Consultant shall clearly state "Final Invoice" on Consultant's last billing for the services rendered to the City. Consultant's submission of a Final Invoice is its certification that all services have been properly performed and all charges and costs have been invoiced to the City. This account will be closed upon the City's receipt of the Final Invoice. Consultant waives any charges not properly included in the Final Invoice and Consultant's acceptance of final payment shall constitute a full waiver of any and all claims, by it against the City arising out of this Agreement or otherwise related to this Project, except those previously made in writing and identified by Consultant as unsettled at the time of the final payment. The City's payment of a Final Invoice shall not constitute evidence of the City's acceptance of Consultant's performance of the services or its acceptance of any of Consultant's work for this Project. The City's review, approval, acceptance, or payment for any of Consultant's services shall not be construed to: (i) operate as a waiver of any rights the City possesses under this Agreement; (ii) waive or release any claim or cause of action arising out of Consultant's performance or nonperformance of this Agreement. Consultant shall be and will always remain liable to the City in accordance with applicable law for any and all damages to the City caused by Consultant's negligent or wrongful performance or nonperformance of any of the services to be furnished under this Agreement.

6.02 PAYMENT FOR ADDITIONAL/REIMBURSABLE SERVICES:

Payment for Additional Services may be requested monthly in proportion to the services performed. When such services are authorized as an hourly rate, the Consultant shall submit for approval by the Director of Department, a duly certified invoice, giving names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a project or task. To the sum thus obtained, any authorized Reimbursable Services Cost may be added. The Consultant shall attach to the invoice all supporting data for payments made to Subconsultants engaged on the project or task.

In addition to the invoice, the Consultant shall, for Hourly Rate authorizations, submit a progress report giving the percentage of completion of the Project development and the total estimated fee to completion.

6.03 DEDUCTIONS:

No deductions shall be made from the Consultant's compensation on account of liquidated damages assessed against contractors or other sums withheld from payments to contractors.

6.04 PROJECT SUSPENSION:

If a project is suspended for the convenience of the City for more than three months or terminated without any cause in whole or in part, during any Phase, the Consultant shall be paid for services authorized by an Authorization to Proceed which were performed prior to such suspension or termination, together with the cost of authorized reimbursable services and expenses then due and all appropriate and applicable terminal expenses resulting from such suspension or termination. If the Project is resumed after having been suspended for more than three months, the Consultant's further compensation shall be subject to renegotiations.

ARTICLE 7
REUSE OF PLANS AND SPECIFICATIONS

7.01 SCOPE OF SERVICES:

It is understood that all Consultant agreements for new work will include the provision for the re-use of plans and specifications, including Phase V of Basic Services described in Article 2, at the City's sole option, by the Consultants agreeing to do work in accordance with the above listed schedule, and by virtue of signing this agreement they agree to a re-use in accordance with this provision without the necessity of further approvals or documents being required and without recourse for such re-use.

If the City elects to re-use the plans and specifications prepared for a project for other projects on other sites, the Consultant will be paid 35% of the original basic fee as calculated under Article 5, Basis of Compensation for Phases I through IV. The Consultant shall not be paid for Phase V of such reuse unless the Consultant services are retained for Phase V, at which time a fee for this phase will be negotiated. Each re-use shall include all Basic Services and minor modifications to the plans and specifications. Services normally required to suit new site conditions, including landscaping, site work, etc., will be negotiated if required. Any major modifications to the plans and specifications will also be negotiated as necessary. The stipulations and conditions of this Agreement shall remain in force for each re-use project, unless otherwise agreed. The re-use rights referenced herein are for the re-use by the City of Hollywood only, and said re-use rights may not be transferred to another entity or governmental agency.

The Consultant shall bind all Sub-consultants to the Contract requirements for re-use of Plans and Specifications.

ARTICLE 8
GENERAL PROVISIONS

8.01 INDEMNIFICATION:

The CONSULTANT shall indemnify and hold harmless the City, and their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Contract. These provisions shall survive the expiration or earlier termination of this Contract. Nothing in this contract shall be construed in any way to affect the sovereign immunity of the City or the rights of the City as set forth in Florida Statutes 768.28, as amended from time to time.

8.02 INSURANCE:

Prior to the commencement of work governed by this contract (including the pre-staging of personnel and material), the Consultant shall obtain insurance as specified in the schedules shown below. The Consultant will ensure that the insurance obtained will extend protection to all sub-Consultants engaged by the Consultant. As an alternative the Consultant may require all sub-Consultants to obtain insurance consistent with the schedules shown below.

The Consultant will not be permitted to commence work governed by this contract (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the City as specified below. Delays in the commencement of work, resulting from the failure of the Consultant to provide satisfactory evidence of the required insurance, shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work commenced on the specified date and time, except for the Consultant's failure to provide satisfactory evidence.

The Consultant shall maintain the required insurance throughout the entire term of this contract and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of all work until the required insurance has been reinstated or replaced. Delays in the completion of work resulting from the failure of the Consultant to maintain the required insurance shall not extend deadlines specified in this contract and any penalties and failure to perform assessments shall be imposed as if the work had not been suspended, except for the Consultant's failure to maintain the required insurance.

The Consultant shall provide, to the City, as satisfactory evidence of the required insurance, either:

1. Certificate of Insurance

2. Certified copy of the actual insurance policy

The City, at its sole option, has the right to request a certified copy of any or all insurance policies required by this contract. All insurance policies must specify that they are not subject to cancellation, non-renewal, material change, or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the City by the insurer.

The acceptance and/or approval of the Consultant's insurance shall not be construed as relieving the Consultant from any liability or obligation assumed under this contract or imposed by law. The City of Hollywood, Florida, its employees and officials will be included as "Additional Insured"

on all policies, except for Workers' Compensation. In addition, the City will be named as an Additional Insured and Loss Payee on all policies covering City-owned property. Any deviations from these General Insurance Requirements must be requested in writing on the City prepared form entitled **"Request for Waiver of Insurance Requirements"** and approved by the City's Risk Management Department.

Any sub-consultant shall supply such similar insurance required of the Consultant. Such certificates shall name the City as additional insured on the general liability and auto liability policies.

8.02A Insurance Limits of Liability:

All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the Owner. All companies shall have a Florida resident agent and be rated a minimum A-VI, as per A.M. Best Company's Key Rating Guide, latest edition.

The Consultant shall furnish certificates of insurance to the Risk Management Director for review and approval prior to the execution of this agreement. The Certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims at the time of contract award to the Consultant. No failure to renew, material change or cancellation of, the insurance shall be effective without a 30-day prior written notice to and approval by the Owner.

1. Comprehensive General Liability:

Prior to the commencement of work governed by this contract, the Consultant shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum:

a. Premises Operations
b. Products and Completed Operations
c. Blanket Contractual Liability
d. Personal Injury Liability
e. Expanded Definition of Property Damage

The minimum limits acceptable shall be:

$ 1,000,000.00 Combined Single Limit (CSL)

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the City. The City of Hollywood shall be named as Additional Insured on all policies issued to satisfy the above requirements.

2. Comprehensive Automobile Liability:

Recognizing that the work governed by this contract requires the use of vehicles, the Consultant, prior to the commencement of work, shall obtain Vehicle Liability Insurance.

Coverage shall be maintained throughout the life of the contract and include, as a minimum, liability coverage for:

Owned, Non-Owned, and Hired Vehicles

The minimum limits acceptable shall be:

$ 1,000,000.00 Combined Single Limit (CSL)

The City of Hollywood shall be named as Additional Insured on all policies issued to satisfy the above requirements.

3. Worker's Compensation Insurance:

Prior to the commencement of work governed by this contract, the Consultant shall obtain Workers' Compensation Insurance with limits sufficient to respond to the applicable state statutes.

In addition, the Consultant shall obtain Employers' Liability Insurance with limits of not less than:

$ 100,000.00 Bodily Injury by Accident
$ 500,000.00 Bodily Injury by Disease, policy limits
$ 500,000.00 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the contract.

Coverage shall be provided by a company or companies authorized to transact business in the state of Florida and the company or companies must maintain a minimum rating of A-VI, as assigned by the A.M. Best Company.

If the Consultant has been approved by the Florida's Department of Labor, as an authorized self-insurer, the City shall recognize and honor the Consultant's status. The Consultant may be required to submit a Letter of Authorization issued by the Department of Labor and a Certificate of Insurance, providing details on the Consultant's Excess Insurance Program.

If the Consultant participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the Consultant may be required to submit updated financial statements from the fund upon request from the City.

4. Professional Liability Insurance:

Recognizing that the work governed by this contract involves the furnishing of advice or services of a professional nature, the Consultant shall purchase and maintain, throughout the life of the contract, Professional Liability Insurance which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Consultant arising out of work governed by this contract.

The minimum limits of liability shall be:

$ 5,000,000.00 per Occurrence / **$ 5,000,000.00** Aggregate

8.03 PERFORMANCE:

8.03A Performance and Delegation:

The services to be performed hereunder shall be performed by the Consultant's own staff, unless otherwise approved by the City. Said approval shall not be construed as constituting an agreement between the City and said other person or firm.

Consultant agrees, within fourteen (14) calendar days of receipt of a written request from the City, to promptly remove and replace any personnel employed or retained by the Consultant, or any sub-consultants or subcontractors or any personnel of any such sub-consultants or subcontractors engaged by the Consultant, to provide and perform services or work pursuant to the requirements of this Agreement, whom the City shall request in writing to be removed, which request may be made by the City with or without cause.

8.03B Time For Performance:

The Consultant agrees to start all work hereunder upon receipt of an Authorization to Proceed issued by the Director of the Department and to complete each Phase within the time stipulated in the Authorization to Proceed. Time is of the essence with respect to performance of this Agreement.

A reasonable extension of the time for completion of various Phases will be granted by the City should there be a delay on the part of the City in fulfilling its part of the Agreement as stated herein. Such extension of time shall not be cause for any claim by the Consultant for extra compensation.

8.04 TERMINATION OF AGREEMENT:

8.04A Right to Terminate:

The City has the right to terminate this Agreement for any reason or no reason, upon seven days' written notice. Upon termination of this Agreement, all charts, sketches, studies, drawings, and other documents related to work authorized under this Agreement, whether finished or not, must be turned over to the City. The Consultant shall be paid in accordance with Section 6.04, provided that said documentation be turned over to City within ten (10) business days of termination. Failure to timely deliver the documentation shall be cause to withhold any payments due.

The Consultant shall have the right to terminate this agreement, in writing, following breach by the City, if breach of contract has not been corrected within sixty (60) days from the date of the City's receipt of a statement from Consultant specifying its breach of its duties under this agreement.

8.04B Annulment:

The Consultant warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the consultant, to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement.

For the breach or violation of this provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

ARTICLE 9
MISCELLANEOUS

9.0 MISCELLANEOUS:

9.01 CONSULTANT'S ACCOUNT RECORDS:

The City reserves the right to audit the Consultant's accounts for bills submitted on Hourly Rate basis during the performance of this Agreement and for five (5) years after final payment under this Agreement. The Consultant agrees to furnish copies of any records necessary, in the opinion of the Director, to approve any requests for payment by the Consultant.

9.02 OWNERSHIP OF DOCUMENTS:

Drawings and Specifications as instruments of service are and shall become the property of the City whether the Project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the City's use and occupancy of the Project.

The Drawings and Specifications shall not be used by the City on other projects, for additions to this Project, or for completion of this Project by others, provided the Consultant is not in default under this Agreement, except as provided in Article 7 or by agreement in writing and appropriate compensation to the Consultant, in which case such drawings and specifications may be used.

Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Consultant's rights.

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without City's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Consultant hereunder, and Consultant shall require all of its employees, agents, sub-consultants and subcontractors to comply with the provisions of this paragraph.

9.03 MAINTENANCE OF RECORDS:

Consultant will keep adequate records and supporting documentation, which concern or reflect its services hereunder. The records and documentation will be retained by Consultant for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. City, or any duly authorized agents or representatives of City, shall have the right to audit, inspect, and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however such activity shall be conducted only during normal business hours.

9.04 EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed with the same formality and equal dignity herewith. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach of any provision of this Agreement.

9.05 SUCCESSORS AND ASSIGNS:

The performance of this Agreement shall not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Consultant without the written consent of the City, acting by and through its Board.

The Consultant and the City each binds one another, their partners, successors, legal representatives and authorized assigns to the other party of this Agreement and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Agreement.

9.06 TRUTH-IN-NEGOTIATION CERTIFICATE

In compliance with the Consultant's Competitive Negotiation Act, for any Authorization to Proceed for a project to be compensated under the Lump Sum method the Consultant shall certify that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of said Authorization to Proceed. The original Project price and any addition thereto will be adjusted to exclude any significant sums by which the City determines the project price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such price adjustments will be made within one (1) year following the end of the Project.

9.07 APPLICABLE LAW AND VENUE OF LITIGATION:

This agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any suit or action brought by any party, concerning this agreement, or arising out of this agreement, shall be brought in Broward County, Florida. Each party shall bear its own attorney's fees except in actions arising out of Consultant's duties to indemnify the City under Article 8.01 where Consultant shall pay the City's reasonable attorney's fees.

9.08 CONSULTANT'S STAFF:

Consultant will provide the key staff identified in their proposal for the Project as long as said key staff is in Consultant's employment.

Consultant will obtain prior written approval of Project Manager to change key staff. Consultant shall provide Project Manager with such information as necessary to determine the suitability of proposed new key staff. Project Manager will act reasonably in evaluating key staff qualifications.

If Project Manager desires to request removal of any of Consultant's staff, Project Manager shall first meet with Consultant and provide reasonable justification for said removal.

9.09 NOTICES:

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by registered United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written 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:

FOR CITY:

City Attorney
City of Hollywood
Post Office Box 229045
Hollywood, Florida 33022-9045

FOR CONSULTANT:

9.10 INTERPRETATION:

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way 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," "hereof," "hereunder," and "hereinafter" 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 of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

9.11 JOINT PREPARATION:

Preparation of this Agreement has been a joint effort of the City AND Consultant and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

9.12 PRIORITY OF PROVISIONS:

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

9.13 MEDIATION; WAIVER OF JURY TRIAL:

In an effort to engage in a cooperative effort to resolve conflict which may arise during the course of the design and /or construction of the subject project(s), and/or following the completion of the projects(s), the parties to this Agreement agree all disputes between them shall be submitted to non-binding mediation prior to the initiation of litigation, unless otherwise agreed in writing by the parties. A certified Mediator, who the parties find mutually acceptable, will conduct any Mediation Proceedings in Broward County, State of Florida. The parties will split the costs of mediation on a 50/50 basis. The parties to this Agreement agree to include such similar contract provisions with all Subconsultants and/or independent contractors and/or consultants retained for the project(s), thereby providing for non-binding mediation as the primary mechanism for dispute resolution.

9.14 TIME:

Time is of the essence in this agreement.

9.15 COMPLIANCE WITH LAWS:

Consultant shall comply with all applicable laws, codes ordinances, rules, regulations and resolutions in performing its duties, responsibilities, and obligations related to this agreement.

9.16 PUBLIC RECORDS LAW:

Consultant acknowledges that Chapter 119, Florida Statutes entitled "Public Records Law" is applicable to this Agreement. Further, the provisions of Section 119.0701, Florida Statutes, are also applicable and Consultant acknowledges its obligations to comply with said requirements with regard to public records and shall:

a) Keep and maintain public records required by City to perform the services required under this Agreement;

b) Upon request from the City's custodian of public records or his/her designee, provide City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following the completion of this Agreement if Consultant does not transfer the records to the City; and

d) Upon completion of this Agreement, Consultant shall transfer, at no cost, to the City, all public records in possession of Consultant or keep or maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of this Agreement, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of this Agreement, Consultant shall meet all applicable requirements

for retaining public records. All records stored electronically must be provided to the City, upon the request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by the undersigned and the said Consultant has caused this Agreement to be executed by the undersigned and the seal of the Consultant set hereto on this day and year first above written.

THE CITY OF HOLLYWOOD, FLORIDA

THE CITY OF HOLLYWOOD, FLORIDA

(SEAL)
ATTEST

By _____

Josh Levy, Mayor

_____

Patricia A. Cerny, MMC, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:

_____

Douglas R. Gonzales, City Attorney

_____

David E. Keller, Director of Financial Services

WHEN THE CONSULTANT IS A CORPORATION OR PROFESSIONAL ASSOCIATION

ATTEST

_____

Name of Corporation

_____

Secretary

By_____

(Corporate Seal)

_____

Consultant's Registration No.

WHEN THE CONSULTANT IS AN INDIVIDUAL OR PARTNERSHIP

ATTEST

Witness:_____

_____
Legal name of Partnership

Witness:_____

By: _____

_____
Legal name (Title, if any)

WHEN THE CONSULTANT IS A JOINT VENTURE

_____
Legal name of firm

_____
Legal name firm

By: _____
Signature

By:_____
Signature

_____
Legal name and title

_____
Legal name and title

ATTEST

_____
Witness

_____
Witness

_____
Witness

_____
Witness