

**CITY OF HOLLYWOOD, FLORIDA,
COMMUNITY REDEVELOPMENT AGENCY**

PROFESSIONAL SERVICES AGREEMENT



----- SERVICES

FOR

Project name

CRA-

**HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY
1948 HARRISON STREET
HOLLYWOOD, FLORIDA 33020**



HOLLYWOOD COMMUNITY REDEVELOPMENT

1948 Harrison Street
Hollywood, Florida 33020
Phone (954) 924-2980 Fax (954) 924-2981

PROFESSIONAL SERVICES AGREEMENT

BETWEEN THE HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY (CRA) FOR
PROFESSIONAL SERVICES

WHEREAS, it is in the best interests of the CRA to be able to obtain professional engineering services expeditiously in connection with a capital improvement project; and

WHEREAS, the CRA has selected the Consultant in accordance with Section 287.055, Florida Statutes (Consultants' Competitive Negotiation Act), to provide professional engineering services as directed by the Executive Director the Hollywood CRA, for such project and/or tasks as may be required by the CRA, with the terms and conditions of the Request for Qualifications (RFQ) used in the selection being a part of this document.

THIS AGREEMENT made this ____ day of _____ in the year Two Thousand ____.

BY AND BETWEEN THE CRA, and _____ hereinafter called the "Consultant," as an

ENGINEERING CONSULTANT

WITNESSETH, that the CRA and the Consultant, for the considerations herein set forth, agree as follows:

Professional Services Agreement
Engineering Services
----- **Project**
Hollywood, Florida

TABLE OF CONTENTS

ARTICLE	PAGE
SCOPE OF THE WORK.....	4
1. DEFINITIONS.....	6
1.01 Additional Services	
1.02 Basic Services	
1.03 City	
1.04 Community Redevelopment Agency (CRA) Board	
1.05 Consultant	
1.06 Consultant's Authorization to Proceed	
1.07 Contractor or Construction Manager (CM)	
1.08 Executive Director	
1.09 Inspector	
1.10 Project	
1.11 Project Manager	
2. CONSULTANT SERVICES AND RESPONSIBILITIES.....	7
2.01 Basic Services	
2.02 Additional Services	
2.03 Reimbursables	
3. SUBCONSULTANTS.....	17
3.01 Definitions	
3.02 Subconsultant's Relations	
4. THE CRA'S RESPONSIBILITIES.....	18
4.01 Information Furnished	
4.02 Project Management	
4.03 Legal Services, Etc.	
5. BASIS OF COMPENSATION.....	20
5.01 Professional Service Fee	
5.02 Additional Service/Reimbursables Fee	
6. PAYMENTS TO THE CONSULTANT.....	23
6.01 Payment for Basic Services	
6.02 Payment for Additional/Reimbursables Services	
6.03 Deductions	
6.04 Project Suspension	

ARTICLE	PAGE
7. REUSE OF PLANS AND SPECIFICATIONS.....	24
7.01 Scope of Services	
8. GENERAL PROVISIONS.....	25
8.01 Indemnification	
8.02 Insurance	
8.03 Performance	
8.04 Termination of Agreement	
9. MISCELLANEOUS.....	30
9.01 Consultant's Account Records	
9.02 Ownership of Documents	
9.03 Maintenance of Records	
9.04 Extent of Agreement	
9.05 Successors and Assigns	
9.06 Truth-in- Negotiation Certificate	
9.07 Applicable Law and Venue of Litigation	
9.08 Consultant's Staff	
9.09 Notices	
9.10 Interpretation	
9.11 Joint Preparation	
9.12 Priority of Provisions	
9.13 Mediation; Waiver of Jury Trial	
9.14 Time	
9.15 Compliance with Laws	
EXHIBIT 'A' Rate Schedule	
EXHIBIT 'B' Insurance Certificate	

SCOPE OF WORK

The Consultant shall furnish professional Engineering Services for the project upon issuance of Consultant's Authorization to Proceed therefore by the Executive Director. Scope of work shall be outlined by proposal by firm for the project as needed.

The Consultant shall furnish the following professional Engineering Services as specifically authorized by Consultant's Authorization to Proceed issued by the Executive Director of the Hollywood CRA: planning, programming, observations, feasibility studies, cost estimates/opinions of probable cost, partial or complete design services, including preparation of construction and bid documents, construction contract administration, review of work prepared by other professional consultants, and other miscellaneous architectural and/or engineering services that may be required.

The Executive Director may issue a Consultants Authorization to Proceed to encompass entire Basic Services (as defined in Section 2.01) for a project, or for a portion of Basic Services, or for discretionary tasks as specified in Sections 2.02 Additional Services or 2.03 Reimbursables.

It is understood that a Consultant's Authorization to Proceed will be issued under this Agreement at the sole discretion of the Executive Director and that the Consultant has no right to or privilege to receive a Consultant's Authorization to Proceed for any particular project or task. The CRA reserves at all times the right to perform any and all engineering services in-house, or with other private professional engineers as provided by Section 287.055, Florida Statutes, (Consultants' Competitive Negotiation Act) or as otherwise provided by law.

This Agreement does not confer on the Consultant any exclusive rights to the CRA work. The Consultant may submit proposals for any professional services which the Consultant is qualified to perform, if and when proposals are publicly solicited by the CRA outside this Agreement.

The CRA will pay the Consultant a separate fee for each Authorization to Proceed issued.

The fees for Professional Services for each Authorization to proceed shall be determined by one of the following three methods or a combination thereof, as mutually agreed upon by the Executive Director and the Consultant.

- (1) A Lump Sum (See Section 5.01A).
- (2) A Percentage of Construction Cost, as defined in Section 5.01B
- (3) Hourly Rate, as defined and at the rates set forth in Section 5.01C.

The aggregate sum of all payments for fees and costs including reimbursable expenses to the Consultant under this Agreement shall be limited to total cumulative expenditures by the CRA of **\$1,000,000** provided that total cumulative expenditures may exceed this amount as necessary for the consultant to complete the project that may begin before total cumulative expenditures reach **\$1,000,000**.

The Executive Director or his/her designee will confer with the Consultant before any Consultant's Authorization to Proceed is issued to discuss the scope of the Work, the time to complete the Work and the fee for services rendered in connection with the Work, provided that, where no

agreement is reached as to the fee for a particular Authorization to Proceed, payment will be made in accordance with Section 5.01C.

Upon the request of the Executive Director, the Consultant will submit a proposal prior to the issuance of an Authorization to Proceed. No payment will be made for the Consultant's time or services in connection with the preparation of any such proposal or for any work done in the absence of an Authorization to Proceed.

ARTICLE 1
DEFINITIONS

- 1.01 ADDITIONAL SERVICES: Those engineering services defined in Section 2.02
- 1.02 BASIC SERVICES: Those engineering services defined in Section 2.01.
- 1.03 CITY: The City of Hollywood, Florida, a Florida Municipal Corporation.
- 1.04 COMMUNITY REDEVELOPMENT AGENCY (CRA) BOARD: The Community Redevelopment Agency (CRA) Board of the CITY of Hollywood, Florida, its successors and assigns.
- 1.05 CONSULTANT: The individual, partnership, corporation, association, joint venture, or any combination thereof, of properly registered professional engineers, which has entered into the agreement to provide professional services to the CRA. The CONSULTANT for this agreement is **Kimley-Horn and Associates, Inc.**
- 1.06 CONSULTANT'S AUTHORIZATION TO PROCEED: A document issued by the CRA 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 CRA for construction of City of Hollywood, Florida or CRA, facilities and incidents thereto.
- 1.08 EXECUTIVE DIRECTOR: The duly appointed chief executive office of the CRA of the Redevelopment District.
- 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 or CRA, facility as contemplated and budgeted by the CRA.
- 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 CRA, concerning the Contract Documents.

ARTICLE 2
CONSULTANT SERVICES AND RESPONSIBILITIES

2.01 BASIC SERVICES:

(Applicable in its entirety only to projects for which complete "Basic Services" are authorized)

The Consultant agrees to provide complete professional engineering services set forth in the five phases enumerated hereinafter and in the Florida Building Code and the City of Hollywood, Florida, Code of Ordinances; including all civil, structural, mechanical, electrical engineering, and landscape design. Services normally required for a project of specific type, unless modified by a specific Authorization to Proceed, hereinafter collectively called "Basic Services," as follows:

On projects for which the CRA has contracted with a Construction Manager, the Consultant shall work in conjunction with the CM to establish goals and produce Construction Documents which meet the CRA's objectives and budget, noting that the CM shall provide and update the cost estimate and construction schedule as required.

2.01A Phase I – Programming and Schematic Design:

- 1) The Consultant shall confer with representatives of the Executive Director to establish the Program, consisting of a detailed listing of all functions and spaces together with the square footage of each assignable space, gross square footage, and a description of the relationships between and among the principal programmatic elements.

If the project needs are so unique that a special analysis of the requirements is necessary to establish a more detailed program, such services may be authorized as Additional Services.

- 2) The Consultant shall prepare and present, for approval by the CRA, a Design Concept and Schematics Report, comprising the Schematic Design Studies, including an identification of any special requirement affecting the Project, a Project Development Schedule and Statement of Probable Construction Cost (the estimate will be prepared by the CM if part of the project team) as defined below:
 - a. The Schematic Design Studies shall consist of site and floor plans, elevations, sections, etc. as required by the Project Manager and shall show the scale and relationship of the parts and the design concept of the whole. Floor plans may be single-line diagrams; door and window locations are not required. A simple perspective rendering or sketch, model, or photograph thereof may be provided to further show the design concept.
 - b. The Project Development Schedule shall show the proposed completion date of each Phase of the Project through design, bidding, construction, and proposed date of occupancy.

- c. The Statement of Probable Construction Cost (when applicable) shall include a summary of the estimated cost of the building(s) including fixed equipment, professional fees, construction contingency allowance, escalation factors adjusted to the estimated bid date, movable equipment (if any), contingencies (if any), utility service extensions (if applicable), and funding allocation evaluation comprising a brief description of the basis for estimated costs (similar projects) with square foot costs adjusted to bid date, and a preliminary evaluation of the program and the allocated construction funds in terms of each other.
- 3) The Consultant shall submit three copies of all documents required under this Phase, without additional charge, for approval by the CRA, and the Consultant shall not proceed with the next Phase until the documents have been approved by the CRA and an Authorization to Proceed with the next phase has been issued.

2.01B Phase II – Design Development:

- 1) From the approved Schematic Design documents, the Consultant shall prepare and present, for approval by CRA, Design Development Documents, comprising the drawings, outline specifications and other documents to delineate and describe the size and character of the entire Project as to civil, structural, mechanical and electrical systems, landscaping, construction and finish materials and other items incidental thereto, and as required by the Project Manager. Staff from each of the major technical disciplines shall attend this presentation to explain the design concept of their systems.
- 2) At this presentation the Consultant shall also submit an updated Statement of Probable Construction Cost (which will be prepared by a Construction Manager, if applicable). If the updated Statement of Probable Construction Cost exceeds the total budgeted amount, appropriate cost or scope reduction recommendations must be included.
- 3) The Consultant shall submit three sets of all documents required under this Phase, without additional charge, for approval by the CRA, and the Consultant shall not proceed with the next Phase until the CRA has approved the documents.

2.01C Phase III – Construction Documents Development:

From the approved Design Development Documents, the Consultant shall prepare for approval by CRA, and in accordance with CRA's format, Final Construction Documents setting forth in detail the requirements for the construction of the Project in accordance with the Project Manager. The Consultant is responsible for full compliance of the design and the Construction Documents with all applicable codes.

1) 50% Construction Documents Submittal:

The Consultant shall make a 50% Construction Documents submittal, for approval by the CRA, which shall include:

- a. Three sets of prints of all drawings, and specifications.
- b. A complete index of every drawing sheet, to become part of the Construction Documents, and the Consultant's evaluation of the individual percentage completion of each sheet.
- c. Preparation of the Specifications, using CSI Standards, including the 16-Division and 3-part Section format developed and recommended by the Construction Specifications Institute. The 50% construction documents submittal shall include all sections of Divisions "0" (zero) and "1" and at least 50% of the technical specification sections, each of which should be 100% complete. These specifications should not be merely outline specifications as submitted during the Design Development phase.
- d. Coordinating with the Construction Manager, if available, to provide an updated Statement of Probable Construction Cost, as indicated by time factor, changes in requirements, or general market conditions, and an updated Project Development Schedule.

An Authorization to Proceed with the completion of Phase III will not be issued if the latest Statement of Probable Construction Cost exceeds the Total Authorized Design Value, unless the CRA increases the Total Authorized Design Value or the Consultant and the CRA agree on methods of cost reduction sufficient to enable construction within the funds available.

- e. Where applicable, approved additive alternate bid items in the Construction Documents to permit the CRA to award a Construction Contract within the limit of budgeted amount.

2) The Consultant shall not proceed with further development until approval of the 50% documents is received from the CRA. The Consultant shall make all changes to the documents and resolve all questions indicated on the documents. The 50% complete Check Set shall be returned to the CRA.

3) 100% Construction Documents Submittal:

- a. Upon 100% completion of the Construction Documents, the Consultant shall submit to the CRA three copies each of

check sets of the Drawings, Specifications, reports, programs, etc., together with a final, updated Statement of Probable Construction Cost from the Construction Manager, if applicable.

- b. The Consultant shall make all required changes or additions and resolve all questions on the documents. The 100% complete Check Set shall be returned to the CRA. Upon final approval by the CRA, the Consultant shall furnish one copy of all Drawings and Specifications, along with a reproducible set and an electronic copy to the CRA without additional charge.
- c. The Consultant shall assist the CRA in filing the required documents for approval by governmental authorities having jurisdiction over the Project and in obtaining certifications of "permit approval" by reviewing authorities prior to printing of the Bid Documents. The Consultant shall make the original documents or reproducible copies thereof available to the CRA for reproduction of additional copies as may be required for bidding and/or construction purposes.

2.01D Phase IV – Bidding and Award of Contract:

1) Bid Documents Approvals and Printing:

Upon obtaining all necessary approvals of the Construction Documents, and approval by the CRA of the latest Statement of Probable Construction Cost, the Consultant shall assist the CRA, where applicable, in obtaining bids and awarding construction contracts or coordinating with the Construction Manager for same.

The CRA may have the drawings and specifications printed for bidding purposes, either through its open agreements with printing firms or as a reimbursable service through the Consultant.

2) Issuance of Bid Documents, Addenda and bid opening, in situations where projects are to be constructed without the services of a Construction Manager:

- a. The CRA shall issue the Bid Documents to prospective bidders and keep a complete "List of Bidders". The Advertisement for Bids will instruct the bidders to pick up the Bid Documents at the Hollywood Community Redevelopment Agency at 1948 Harrison Street, Hollywood, Florida, 33020.
- b. The Consultant shall prepare addenda, if any are required, for the CRA to issue to all prospective bidders. No addendum shall be issued without the CRA's approval.

- c. The Consultant shall be present at the bid opening, with the CRA's representatives.
- 3) If the lowest responsive, responsible Base Bid received, or the Construction Manager's Guaranteed Maximum Price (GMP), exceeds the Total Authorized Design Value, the CRA may:
- a. Approve the increase in Project cost and award a contract, or
 - b. Reject all bids and rebid the Project, or if a Construction Manager is being utilized, reject the proposed Guaranteed Maximum Price (GMP) and negotiate with another Construction Manager, within a reasonable time with no change in the Project, or
 - c. Direct the Consultant to revise the Project scope or quality, or both, as approved by the CRA, and rebid the Project, or
 - d. Suspend or abandon the Project.

NOTE: Under item (3)c above the Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost within the budgeted amount. The providing of such service shall be the limit of the Consultant's responsibility in this regard, and having done so, the Consultant shall be compensated in accordance with this Agreement. The CRA may recognize exceptional construction market cost fluctuations before exercising option (3)c above.

It is agreed that any "Statement of Probable Construction Cost" or Detailed Cost Estimate prepared by the Consultant or the Construction Manager (if applicable) represents a reasonable estimate of cost in the Consultant's or Construction Manager's best judgment as a professional familiar with the local construction industry, and that neither the Consultant, Construction Manager nor the CRA, has any control over the cost of labor, materials, and equipment, bidders' methods of determining bid prices, competitive bidding, or market conditions. Therefore, the Consultant cannot and does not guarantee that bids will not vary from the final Statement of Probable Construction Cost or Detailed Cost Estimate prepared by the Consultant or Construction Manager, if applicable.

If the Latest Statement of Probable Construction Cost exceeds the budgeted amount, the Consultant shall review the materials, equipment, component systems and types of construction included in the Contract Documents and may recommend changes in such items and/or reasonable adjustments in the scope of the Project (to be made at no additional cost to the CRA) that will result in bids within the available funds.

Evaluations of the CRA's Project budget, preliminary estimates of construction cost and detailed estimates of construction cost prepared by the Consultant or Construction Manager (if applicable) represent the Consultant's or Construction Manager's best judgment as a professional familiar with the construction industry. Prior to authorizing the Consultant

to proceed with preparation of the Final Design, the CRA may establish and communicate to the Consultant a maximum sum for the cost of construction of the Project ("Construction Budget"). If the CRA has not advertised for bids within ninety (90) days after the Consultant submits the Final Design to the CRA, the estimate of the cost of construction may be adjusted. The Consultant cannot and does not guarantee that bids or negotiated prices will not vary from any estimate of construction cost or evaluation prepared or agreed to by the Consultant. Notwithstanding anything above to the contrary, the CRA may require the Consultant to revise and modify Construction Documents and assist in the re-bidding of the Work at no additional cost to the CRA if all responsive and responsible bids received exceed the Construction Budget.

2.01E Phase V – Administration of the Construction Contract:

- 1) The Construction Phase will begin with the award of the Construction Contract and will end when the CRA approves the Contractor's final Payment Certificate. During this period, the Consultant shall provide Administration of the Construction Contract as set forth in the General and Supplementary Conditions of the Construction Contract.
- 2) The Consultant, as the representative of the CRA during the Construction Phase, shall advise and consult with the CRA and shall have authority to act on behalf of the CRA to the extent provided in the General Conditions and the Supplementary Conditions of the Construction Contract.
- 3) The Consultant shall visit the site at least bi-weekly (or as necessary), and at all key construction events, and the Consultant's respective Subconsultants shall visit the site bi-weekly (or as necessary), to ascertain the progress of the Project and to determine in general if the work is proceeding in accordance with the Contract Documents. On the basis of on-site observations, the Consultant shall endeavor to guard the CRA against defects and deficiencies in the work. The Consultant will not be required to make extensive inspections or provide continuous daily on-site inspections to check the quality or quantity of the work unless otherwise set forth in this Agreement.

The Consultant will not be held responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor will the Consultant be held responsible for the Contractor's or Subcontractors', or any of their agents' or employees' failure to perform the Work in accordance with the Contract Documents.

- 4) The Consultant shall furnish the CRA with a written report of all observations of the work made by the Consultant and the Subconsultants during each visit to the Project. The Consultant shall also note the general status and progress of the work and submit it in a timely manner. The Consultant and the Subconsultants shall ascertain that the Contractor is making timely, accurate, and complete notations on the "as-built" drawings.

- 5) Based on observations at the site and consultation with the Project Manager, the Consultant shall determine the amount due the Contractor on account and shall recommend approval of such amount. This recommendation shall constitute a representation by the Consultant to the CRA that, to the best of the Consultant's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents subject to:
- a. An evaluation of the Work for conformance with the Contract Documents upon Substantial Completion.
 - b. The results of any subsequent tests required by the Contract Documents.
 - c. Minor deviations from the Contract Documents correctable prior to completion.
 - d. Any specific qualifications stated in the Payment Certificate and further that the Contractor is entitled to payment in the amount agreed upon at the requisition site meeting.

By recommending approval of a Payment Certificate, the Consultant shall not be deemed to represent that the Consultant has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Construction Contract Sum.

- 6) The Consultant shall be an interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. The Consultant shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the CRA or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the CRA and the Contractor relating to the execution or progress of the work or the interpretation of the Contract Documents.
- 7) Interpretations and decisions of the Consultant shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in written or graphic form. In the capacity of interpreter, the Consultant shall endeavor to secure faithful performance by both the CRA and the Contractor, and shall not show partiality to either.
- 8) The Consultant shall have authority to recommend rejection of work which does not conform to the Contract Documents. Whenever, in the Consultant's reasonable opinion, it is necessary or advisable to insure compliance with the Contract Documents, the Consultant will have authority to recommend special inspection or testing of any work deemed to be not in accordance with the Contract, whether or not such work has been fabricated and delivered to the Project, or installed and completed. The Consultant shall provide such normal mechanical, electrical, structural, landscape or other related inspection expertise as necessary to determine compliance with the Construction Contract.

- 9) The Consultant shall promptly review and approve shop drawings, samples, and other submissions of the Contractor for conformance with the design concept of the Project and for compliance with the Contract Documents. The Consultant shall prepare colorboards to review the color selections for all finish materials with the Executive Director and furnish the approved colors to the Contractor in a timely manner so as not to delay the construction progress. Changes or substitutions to the Contract Documents shall not be authorized without concurrence of the Project Manager.
- 10) The Consultant shall initiate Change orders for the CRA's approval as required by the Consultant's observations, or requested by the CRA; and review and recommend action on proposed Change Orders within the scope of the Project initiated by others.
- 11) The Consultant shall examine the Work upon receipt of the Contractor's Request for Substantial Completion Inspection of the Project and shall, prior to occupancy, recommend execution of a Certificate of Acceptance for Substantial Completion after first ascertaining that the Project is substantially completed in accordance with the contract requirements. A punch list of any defects and discrepancies in the Work required to be corrected by the Contractor shall be prepared by the Consultant and the Subconsultants in conjunction with representatives of the CRA, and satisfactory performance obtained thereon before the Consultant recommends execution of a Certificate of Final Acceptance and final payment to the Contractor. The Consultant shall obtain from the Contractor all guarantees, operating and maintenance manuals for equipment, releases of claims and such other documents and certificates as may be required by applicable codes, laws, and the specifications, and deliver them to the CRA.
- 12) The Consultant shall provide assistance in obtaining the Contractor's compliance with the Contract Documents relative to 1) initial instruction of CRA's and/or CITY's personnel in the operation and maintenance of any equipment or system, 2) initial start-up and testing, adjusting and balancing of equipment and systems and 3) final clean-up of the Project.
- 13) The Consultant shall furnish to the CRA, the original drawings, revised to "as-built" conditions based on information furnished by the Contractor; such drawings shall become the property of the CRA.

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) Planning surveys, or comparative studies of prospective sites.

- 2) Design services relative to future facilities, systems and equipment which are not intended to be constructed as part of a specific project.
- 3) Providing services to investigate existing conditions of facilities or to make measured drawings thereof, after the Consultant has expended an amount of time deemed to be the normal requirement for renovation and alteration projects. The Consultant will be required to verify this expenditure in accordance with Article 6.
- 4) Professional detailed Estimates of Construction Cost consisting of quantity surveys itemizing all material, equipment and labor required for a project.
- 5) Investigation and making detailed appraisals and valuations of existing facilities, and surveys or inventories in connection with construction performed by the CRA.
- 6) The services of one or more full-time Project Field Representatives during construction.
- 7) 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 CRA's and/or 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.
- 8) Consultation concerning replacement of any work damaged or built inconsistently with the Contract Drawings, providing the cause is found by the CRA to be other than by fault of the Consultant or his/her agents.
- 9) 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 CRA and are due to causes beyond the control of the Consultant. (Major revisions are defined as those changing the scope and arrangement of spaces and/or scheme and/or any significant portion thereof.)
- 10) 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/CRA in any proceeding during the course of this Agreement.
- 11) Providing services after issuance to the CRA of the Final Certificate for Payment, following when such payment has been made to the contractor.
- 12) Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural/engineering practice related to construction.

- 13) Upon the request of the CRA, and upon written authorization by the Executive Director at approximately 75% completion of the Construction Documents, the Consultant shall submit several simple studies of proposed perspective drawings for the Project, indicating suggestions for angles of view and general composition of a rendering. Upon approval of a perspective format, the Consultant shall execute and submit, with the 100% Construction Documents, one 20" x 30" mounted perspective rendering in color of the Project and three smaller 10" x 15" mounted photographic copies, in color. This will be considered as an additional service, to be compensated on a mutually agreeable basis in accordance with this Agreement.

2.03 REIMBURSABLES:

2.03A Reimbursables are those items authorized by the CRA 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 Dade-Broward-Palm Beach County area or from locations outside the 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 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 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 of the CRA 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 CRA and the Consultant under this Agreement.
- 3.02B Nothing contained in this Agreement shall create any contractual or business relationship between the CRA 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 Executive Director, 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 DIRECTOR.

ARTICLE 4 THE CRA'S RESPONSIBILITIES

4.01 INFORMATION FURNISHED:

The CRA, 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 building 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; chemical, mechanical, structural, or other tests when deemed necessary; also, if required, an appropriate professional interpretation thereof and recommendations. The Consultant shall recommend necessary tests to the CRA.
- 4.01C Information regarding Project Budget, City/CRA 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 CRA'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 CRA (such as surveys & soil borings) to determine if additional information and/or testing is required to properly design the project.
- 4.01F The CRA 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 Executive Director shall act in behalf of the CRA in all matters pertaining to this Agreement, and with the approval of the Executive Director, the CRA shall

issue all Authorizations to Proceed to the Consultant. The Executive Director shall approve all invoices for payment to the Consultant.

4.02B The Executive Director shall designate a Project Manager from the CRA staff 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 CRA staff shall assume the responsibilities described in the General Conditions and Supplementary Conditions of the Construction Contract.

4.02D If the CRA 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 CRA shall give prompt notice thereof to the Consultant.

4.03 LEGAL SERVICES, ETC.:

4.03A The CRA 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 CRA.

ARTICLE 5
BASIS OF COMPENSATION

5.01 PROFESSIONAL SERVICE FEES:

The CRA agrees to pay the Consultant, and the Consultant agrees to accept for services rendered pursuant to this Agreement, fees computed by one or a combination of the methods outlined under Sections 5.01A1, 5.01B, and 5.01C as applicable in the following manner:

5.01A Lump Sum:

- 1) The fee for a task or project may, at the option of the CRA, be a Fixed Sum as mutually agreed upon in writing by the CRA and the Consultant and stated in an Authorization to Proceed.
- 2) If a Fixed Sum is agreed upon as the "Basic Fee" for a project, payments to the Consultant on account of the fee shall be made on a percentage of the Basic Fee according to the Phase of the Work as indicated under Section 6.01.
- 3) If the CRA authorizes an increase or decrease in the scope of the project or the Total Authorized Design Value of the project, the Basic Fee may be adjusted in accordance with "Exhibit A" Rate Schedule or as mutually agreed upon.

It is understood that with Lump Sum Compensation, the Consultant shall perform all services for total compensation in the amount stated above. The CRA shall have no obligation or liability to pay any fee, expenditure, charge or cost beyond the Lump Sum Compensation amount stipulated.

5.01B Percentage of Construction Cost:

A percentage fee based on the Total Authorized Design Value of a project said percentage being hereinafter called the "Basic Fee," as mutually agreed upon in writing by the CRA and the Consultant and stated in an Authorization to Proceed. If the CRA authorizes an increase or decrease in the scope of the Project or the Total Authorized Design Value of the Project, the Basic Fee will be adjusted in accordance with "Exhibit A" Rate Schedule or as mutually agreed upon.

- 1) Fee Computation:
 - a. The Total Authorized Design Value shall be used and identified on the Authorization to Proceed as the basis for establishing the fee for Phases I, II, III and IV of Basic Services.
 - b. The "Actual Construction Cost" shall be used as the basis for determining the fee for Phase V of Basic Services.

The term "Actual Construction Cost" does not include any compensation of the Consultant, the cost of the land, rights-of-way, works of art, or other costs which are the responsibility of the CRA.

- 2) It is understood that with percentage compensation the Consultant shall perform all services for the stated percentage of the construction cost budgeted when the contract is signed.

5.01C Hourly Rate:

- 1) The fee shall be defined on an hourly rate as defined in Article 5.01E.
- 2) The following Principals may be employed on a project:

_____	_____
_____	_____
_____	_____

- 3) Personnel directly engaged on a project by the Consultant may include architects, engineers, designers, job captains, draftsmen, specifications writers, field accountants and inspectors engaged in consultation, research and design, production of drawings, specifications and related documents, construction inspection, and other services pertinent to a project during all phases thereof.
- 4) Any authorized reimbursable services fee shall not include charges for office rent or overhead expenses of any kind, including local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, etc., reproduction of drawings and specifications, mailing, stenographic, clerical, or other employees time or travel and subsistence not directly related to a project. For all reimbursable services the Consultant will apply the multiplier of one- (1.0) times the amount expended by the Consultant. CRA authorized reproductions in excess of sets required at each phase of the work will be a Reimbursable Service.
- 5) Should overtime work be necessary, and authorized in advance by the Executive Director, the compensation for such work shall be approved by the Director and stated in an Authorization to Proceed.
- 6) It is understood with an hourly rate fee that the fees will not exceed the hourly salary rate shown on "Exhibit A" and all services shall be performed on that basis.

5.01D Fee for Additive Alternates:

The design of additive alternates authorized by the Executive Director will be considered a Basic Service and the fees for these alternates will be calculated by

one of the three methods outlined above, as mutually agreed by the Executive and the Consultant and approved by the Executive Director.

5.01E Hourly Rates:

The hourly rate is defined as per "Exhibit A" Rate Schedule.

5.02 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 one of the following methods:

- a) Mutually agreeable Fixed or Lump Sum, in accordance with Section 5.01A.
- b) Percentage of Construction Cost in accordance with Section 5.01B.
- c) Hourly Rate in accordance with Section 5.01C.

An independent and detailed Authorization to Proceed shall be required to be issued and signed by the Executive Director for each additional service requested by the CRA. 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 of Hollywood Purchasing Ordinance and other applicable laws.

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

5.03 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 CRA 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 CRA in the actual amount paid by Consultant.

5.04 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 CRA 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. Said payments shall, in the aggregate, not exceed the percentage of the estimated total Basic Compensation indicated below for each Phase.

15% upon completion and approval of Phase I.

35% upon completion and approval of Phase II.

55% upon submittal and approval of 50% of Phase III.

75% upon submittal of required renderings and final completion and approval of Phase III.

80% upon final completion of Phase IV.

100% upon completion of and approval of all Work and audit of account Phase V.

Partial payments, corresponding to the percentage of completion of the project, may be made during Phase V, 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.

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 Executive Director, 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 CRA 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 CRA'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 CRA and/or the CITY elect 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, sitework, 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 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 CRA, 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 and CRA or the rights of the CITY and CRA 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/CRA 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/CRA, as satisfactory evidence of the required insurance, either:

1. Certificate of Insurance
2. Certified copy of the actual insurance policy

The City/CRA, 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/CRA 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/CRA 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.

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.

If applicable, any sub-contractor(s) used by the contractor shall supply such similar insurance required of the contractor. Such certificate shall name the City as additional insured

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 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/CRA. The City/CRA 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:

\$500,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

\$100,000 per Person

\$500,000 per Occurrence

\$50,000 Property Damage

The City/CRA 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:

\$500,000 Bodily Injury by Accident

\$500,000 Bodily Injury by Disease, policy limits

\$500,000 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/CRA 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/CRA.

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:

\$1,000,000 per Occurrence / **\$2,000,000** 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 CRA. Said approval shall not be construed as constituting an agreement between the CRA and said other person or firm.

Consultant agrees, within fourteen (14) calendar days of receipt of a written request from the CRA, 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 CRA shall request in writing to be removed, which request may be made by the CRA 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 Executive Director 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 CRA should there be a delay on the part of the CRA 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 CRA 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 CRA. The Consultant shall be paid in accordance with Section 6.04, provided that said documentation be turned over to CRA 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 CRA, if breach of contract has not been corrected within sixty (60) days from the date of the CRA'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 CRA 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 CRA 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 CRA 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 CRA's use and occupancy of the Project.

The Drawings and Specifications shall not be used by the CRA 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 CRA'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. CRA, or any duly authorized agents or representatives of CRA, 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 CRA 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 CRA, acting by and through its Board.

The Consultant and the CRA 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 CRA 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 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/CRA under Section 8.01 where CONSULTANT shall pay the CITY's/CRA's reasonable attorney's fees.

9.08 CONSULTANT'S STAFF:

CONSULTANT will provide the key staff identified in their proposal for 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 CRA:

Susan Goldberg, Deputy Director
Hollywood Community Redevelopment Agency
1948 Harrison Street
Hollywood, Florida 33020

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 CRA 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.

IN WITNESS WHEREOF, the CRA 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 HOLLYWOOD COMMUNITY REDEVELOPMENT AGENCY, FLORIDA

THE CITY OF HOLLYWOOD,
FLORIDA, COMMUNITY REDEVELOPMENT
AGENCY

(SEAL)
ATTEST

By _____
Jorge Camejo, Executive Director

Phyllis Lewis, Executive Assistant

Approved as to form and legality
for the use and reliance of the
CRA only.

Douglas R. Gonzales, General Counsel

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