

**CITY OF HOLLYWOOD, FLORIDA**



**PROFESSIONAL SERVICES AGREEMENT**

**FOR**

**PROFESSIONAL ENGINEERING CONSULTING SERVICES TO  
INFLOW AND INFILTRATION PROGRAM**

**Solicitation # RFQ-4717-22-OT**

**DEPARTMENT OF PUBLIC UTILITIES  
CITY OF HOLLYWOOD**



## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 17<sup>th</sup> day of August, 2023 by and between the City of Hollywood, a municipal corporation of the State of Florida ("City") and Hazen and Sawyer, P.C., a Florida corporation authorized to do business in the State of Florida ("Consultant").

### RECITALS

WHEREAS, on December 7, 2022, the City Commission passed and adopted Resolution No. R-2022-364, authorizing the appropriate City officials to negotiate an agreement with Consultant to provide professional engineering services to Inflow and infiltration program; and

WHEREAS, the parties have negotiated this Agreement.

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

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## SCOPE OF WORK

The Consultant shall furnish professional engineering consulting services for the first year of Phase 1, which will include wastewater flow data collection, rainfall data collection, groundwater data collection and tidal data collection, analysis, and development of a comprehensive report, for the Inflow and Infiltration Program project.

**1. Progress Meetings**

The consultant will be expected to provide three progress meetings during Phase 1:

- After dry-weather flow measurement
- At the monitoring mid-point
- After all data is collected and the consultant begins drafting the report

**2. Wastewater Flow Data collection and analysis**

SCADA or data logger collection will select to be installed in City's sewer collection system. The consultant shall submit the data collection methods for review. Data will be analyzed; where this is not possible, the Department will accept other types of flow measurement. Flow metering is expected to cover all 85 pump stations with the City.

**3. Rainfall Monitoring, Groundwater and Tidal collection and analysis**

The consultant shall obtain and analyze data according to wastewater monitoring for City's review and approval. The consultant will determine the number and installation locations of rainfall, groundwater monitoring devices and install them to establish initial groundwater elevations.

**4. Phase 1 Report**

The consultant will prepare a comprehensive report documenting data collection, findings, and conclusions. The report should have sufficient detail so that an independent third party can repeat the data collection and analysis process for quality assurance. The recommendations section will include all sub-basins recommended for I&I source investigation and a cost estimate for completing this work.

In accordance with the City's Procurement Code, The Department of Public Utilities ("Department") may execute Authorization(s) to Proceed with the Consultant 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 by the Consultant that Consultant has no right to or privilege to receive an Authorization to Proceed for any particular project or task. The City reserves at all times the right to perform any and all design services in-house, or with other private professional architects or engineers as provided by Section 287.055, Florida Statutes, (Consultants' Competitive Negotiation Act) or as otherwise provided by law.

The City reserves at all times the right to perform any and all design services in-house, or with other private professional architects or 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 City 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 City outside this Agreement.

The City will pay the Consultant a separate fee for each Authorization to Proceed issued in accordance with the negotiated scope of work and fee in the initial contract award for that Phase or Scope of the Services.

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 mutually agreed upon by the Director of the Department and the Consultant.

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

The contract is for duration of the design and construction phase of these three projects, estimated at this time to be a term of two (2) years with the option to renew for two (2) additional two (2) year periods.

The Director of the Department or his/her designee will confer with the Consultant before any Consultant's Authorization to Proceed is executed 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 Department, the Consultant will submit a proposal prior to the issuance of an Authorization to Proceed for work not covered under the original contract award. 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 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:

The Consultant agrees to provide complete Engineering design services set forth in one phase in this agreement and in accordance with the Florida Building Code, the City of Hollywood, Florida, Code of Ordinances, Florida Department of Transportation regulations and Broward County requirements; including all mechanical, electrical and plumbing engineering 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:

2.01A – Phase 1 - The Consultant shall furnish Professional Engineering Consulting Services for the Phase I Quantifying Infiltration and Inflow.

- 1) The Consultant shall confer with representatives of the Department as necessary to review and establish the projects, consisting of a detailed listing of all functions, scope of work, inventory of existing conditions, project vision, requirements and goals, project limits and uses together with each assignable space, image, theme and design vocabulary.
- 2) The consultant will work on the wastewater flow data collection, rainfall data collection, groundwater data collection and tidal data collection and analysis development of a comprehensive report
- 2a) The Consultant shall prepare and present, for approval by the City, the Phase 1 report for Infiltration and Inflow evaluation report.
- 3) The Consultant shall submit three copies of all documents required under this Phase, without additional charge, for approval by the City, and the Consultant shall not proceed with the next step in this Phase until the documents have been approved by the City and an Authorization to Proceed with the next steps in the phase has been issued.
- 4) The Consultant shall record comments and suggestions, prepare meeting minutes, and provide written responses to all comments, including information about why the comment/suggestion was or was not incorporated into the design. These responses will be included in the 90% plans presentation.

2.01B – Other Future phases of the project, including detailed design and construction administration of other facilities based on decision from space planning, will be negotiated and presented to the City Commission for approval at a later date.

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.

8.05 DESIGN PROFESSIONALS CONTRACTUAL LIMITATION ON LIABILITY

**PURSUANT TO FLORIDA STATUTE SECTION 558.0035, AN  
INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT SHALL NOT BE  
HELD INDIVIDUALLY LIABLE.**

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:

Phil Cooke, P.E., Senior Associate  
Hazen and Sawyer, P.C.  
4000 Hollywood Blvd, Suite 750N, North Tower  
Hollywood, FL 33021

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



DocuSigned by:  
  
By \_\_\_\_\_  
E3E5798FD4A34FA...  
Josh Levy, Mayor

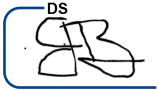
DocuSigned by:  
*Patricia A. Cerny*  
\_\_\_\_\_  
784415EE2C0C47E...  
Patricia A. Cerny, MMC, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FINANCE:

DocuSigned by:  
*Douglas Gonzales*  
\_\_\_\_\_  
31026A9647E142A...  
Douglas R. Gonzales, City Attorney

DocuSigned by:  
*David E. Keller*  
\_\_\_\_\_  
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David E. Keller, Director of Financial Services




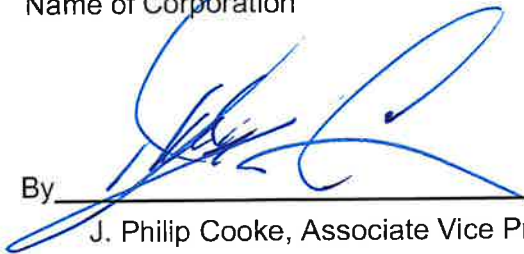
WHEN THE CONSULTANT IS A CORPORATION OR PROFESSIONAL ASSOCIATION

ATTEST

Hazen and Sawyer, DPC

\_\_\_\_\_  
Name of Corporation

  
\_\_\_\_\_  
Secretary

By   
\_\_\_\_\_  
J. Philip Cooke, Associate Vice President



\_\_\_\_\_  
2771  
\_\_\_\_\_  
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

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Witness

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Witness

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Witness