

**PROFESSIONAL SERVICES AGREEMENT
DESIGN SERVICES FOR THE
59th AVENUE EXTENSION PROJECT**

2019-27



The Town of Miami Lakes Council:

**Mayor Manny Cid
Vice Mayor Nelson Rodriguez
Councilmember Carlos Alvarez
Councilmember Jeffrey Rodriguez
Councilmember Joshua Dieguez
Councilmember Luis Collazo
Councilmember Marilyn Ruano**

Edward Pidermann, Town Manager
The Town of Miami Lakes
6601 Main Street
Miami Lakes, Florida 33014

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SAMPLE

This Agreement made this ___ day of _____ in the year **2019** ("Agreement") by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and Stantec Consulting Services, Inc. hereinafter called the "Consultant."

RECITALS

A. WHEREAS, the Town issued a Request for Qualifications ("RFQ") 2019-27 on April 12, 2019 for the provision of design services ("Services") for the NW 59th Avenue Extension project, and received Consultant's proposal ("Proposal") in response thereto, was selected as one of the most qualified for the provision of said Services. The RFQ and the Proposal are expressly incorporated into and made a part of this Agreement as if set forth in full.

B. WHEREAS, the Town, through action of the Town Manager or the Town Commission, as applicable, has selected the Consultant in accordance with Section 287.055, Florida Statutes, (Consultants' Competitive Negotiation Act), and the applicable provisions of the Town Procurement Ordinance, to provide the professional services as described herein.

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

SECTION A - GENERAL TERMS AND CONDITIONS

A1 DEFINITIONS

A1.01 Additional Services

"Additional Services" mean any Work defined as such in this Agreement, secured in compliance with Florida Statutes and Town Code.

A1.02 Attachments

"Attachments" mean the Attachments to this Agreement which are expressly incorporated by reference and made a part of this Agreement as if set forth in full.

A1.03 Base Fee

"Base Fee" means the amount of compensation mutually agreed upon for the completion of the Services under this Agreement.

A1.04 Basic Services

"Basic Services" means those services designated as such in a Work Order.

A1.05 Consultant

"Consultant" means the individual, partnership, corporation, association or any combination thereof, of properly registered professional architects, or engineers, which has entered into the Agreement to provide professional services to the Town.

A1.06 Contractor

“Contractor” means an individual, partnership, corporation, association, joint venture, or any combination thereof, which has entered into a contract with the Town for construction

A1.07 Errors

“Errors” means items in the plans, specification or other documents prepared by the Consultant that are shown incorrectly, which results in a change to the Services or results in the need for the construction contractor to perform rework or additional work or which causes a delay to the completion of construction.

A1.08 Errors and Omissions

“Errors and Omissions” means design deficiencies in the plans, specification or other documents prepared by the Consultant, which must be corrected in order for the project to function or be built as intended.

A1.09 Final Acceptance

“Final Acceptance” means the acceptance of the plans, specification or other documents prepared by the Consultant by the Town, which will occur after the Town have reviewed the plans, specification or other documents and confirmed that the plans, specification or other documents incorporates all of the requirements of the Services and any comments previously provided by the Town.

A1.10 Inspector

“Inspector” means an employee or representative of the Town assigned by the Town to make observations of work performed by a Contractor.

A1.11 Notice to Proceed

“Notice to Proceed” means same as “Authorization to Proceed.” A duly authorized written letter or directive issued by the Town Manager or Procurement Manager acknowledging that all conditions precedent have been met or directing that Consultant may begin performing the Services.

A1.12 Omissions

“Omissions” means details of information are missing from the plans, specification or other documents prepared by the Consultant, which are necessary for the proper and safe completion of the Project.

A1.13 Project Manager

“Project Manager” means an employee or representative of the Town assigned by the Town Manager to manage and monitor the Services to be performed under this Agreement.

A1.14 Professional Services

“Professional Services” means those services within the scope of the practice of professional engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any professional engineer or registered surveyor or mapper in connection with his or her professional employment or practice. These services may be abbreviated herein as “engineering services” or “professional services”, as applicable, which are within this definition.

A1.15 Professional Services Agreement (“Agreement” or “PSA”)

“Professional Services Agreement,” “Agreement,” or “PSA” means this Agreement and all attachments and any authorized amendments thereto. In the event of a conflict between the Request for Qualifications (“RFQ”) and the Consultant’s response thereto the RFQ will control. In the event of any conflict between the Consultant’s response to the RFQ and this PSA, this PSA will control. In the event of any conflict between this PSA and its attachments this PSA will control.

A1.16 Project

“Project” means the construction, alteration and/or repair, and all services and incidentals thereto, of a Town facility or property or other task/scope, as contemplated and budgeted by the Town. A Project will be further defined in the Scope of Services under the Agreement.

A1.17 Scope of Services or Services

“Scope of Services” or “Services” means a comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones required for the completion of Project with sufficient detail to allow a reasonably accurate estimation of resources necessary for its completion.

A1.18 Subconsultant

“Subconsultant” means a person or organization of properly registered professional architects, engineers, registered surveyor or mapper, or other professional specialty that has entered into a written agreement with the Consultant to furnish specified Services for work to be completed under the Agreement.

A1.19 Town Council

“Town Council” means the legislative body of the Town of Miami Lakes.

A1.20 Town Manager

“Town Manager” means the duly appointed chief administrative officer of the Town of Miami Lakes or designee.

A1.21 Town or Owner

“Town” or “Owner” means the Town of Miami Lakes, Florida, a Florida municipal corporation, the public agency which is a party hereto and for which this Agreement is to be performed. In all respects hereunder, Town’s performance is pursuant to Town’s position as the Owner of the Project. In the event the Town exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances will be deemed to have occurred pursuant to Town’s authority as a governmental body and will not be attributable in any manner to Town as a party to this Agreement. The Town of Miami will be referred to herein as “Town”. For the purposes of this Agreement, “Town” without modification means the Town Manager.

A1.22 Wage Rates

“Wage Rates” means the effective direct expense to Consultant on an hourly rate basis, for employees in the specified professions and job categories assigned to provide services under this Agreement that justify and form the basis for professional fees regardless of actual manner of compensation.

A1.23 Work Order

“Work Order” means a document approved and issued by the Town authorizing the performance of specific Professional Services for a Project(s) or task(s) under this Agreement.

A1.24 Work Order Proposal

“Work Order Proposal” means a document prepared by the Consultant, at the request of the Town for Services to be provided by the Consultant.

A2 PERFORMANCE

A2.01 Performance and Delegation

The Services to be performed hereunder must be performed by the Consultant's own staff, unless otherwise provided in this Agreement, or approved, in writing by the Project Manager. Said approval will not be construed as constituting an agreement between the Town and said other person or firm and the Town assumes no liability or responsibility for any Subconsultant.

A2.02 Removal of Unsatisfactory Personnel

The Town Manager may make written request to Consultant for the prompt removal and replacement of any personnel employed or retained by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. The Consultant must respond to the Town within seven (7) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. All decisions involving personnel will be made by the Town. Such request will solely relate to said employees work under this Agreement.

A2.03 Consultant Key Staff

The parties acknowledge that Consultant was selected by the Town, in part, on the basis of qualifications of particular staff identified in Consultant's response to Town's solicitation, hereinafter referred to as "Key Staff". Consultant must ensure that Key Staff are available for Services hereunder as long as said Key Staff is in Consultant's employ. Consultant must obtain prior written acceptance of Project Manager to change Key Staff. Consultant must provide the Project Manager with such information as necessary to determine the suitability of proposed new Key Staff. The Project Manager will act reasonably in evaluating Key Staff qualifications. Such acceptance will not constitute any responsibility or liability for the individual's ability to perform.

A2.04 Time for Performance

The Consultant agrees to start all Services hereunder upon receipt of a Notice to Proceed or signed Work Order issued by the Town Manager and to complete each assignment, task or phase within the time stipulated in the Notice to Proceed or Work Order. Time is of the essence with respect to performance of this Agreement.

A reasonable extension of the time for completion of various assignments, tasks or phases may be granted by the Town Manager should there be a delay on the part of the Town in fulfilling its obligations under this Agreement as stated herein. Such extension of time will not be cause for any claim by the Consultant for extra compensation.

A2.05 E-Verify Requirements

This Project requires the Consultant to comply with the Department of Homeland Security E-Verify program. Consultant and any Subconsultants must utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Consultant or Subconsultant during the term of the Agreement.

Consultant must provide documentation from Homeland Security verifying a new employee's eligibility, for itself or its Subconsultant, prior to the employee performing any Services under the Agreement.

A3 STANDARD OF CARE

Consultant is solely responsible for the technical accuracy and quality of its services. Consultant must perform all services in compliance with Florida Administrative Code Rule 61G15-19.001(4) and section 471.033(1)(g) of the Florida Statutes. Consultant must perform due diligence, in accordance with best industry practices, in gather information and inspecting a project site prior to the commencement of the Services. Consultant will be responsible for the professional quality, technical accuracy and coordination

of all reports, design, drawings, specification, and other Services furnished by the consultant under this Agreement. Consultant must, without additional compensation, correct or revise any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services. Consultant will also be liable for claims for delay costs, and any increased costs in construction, including but not limited to additional work, demolition of existing work, rework, etc., resulting from any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services.

A4 SUBCONSULTANTS

A4.01 General

A4.01-1 A Subconsultant, as defined in Article A1.18, is a firm that was identified as part of the consulting team in the competitive selection process by which Consultant was chosen to perform the Services under this Agreement, and as such, is identified and listed in Schedule 1.

A4.01-2 A Specialty Subconsultant is a person or organization that has, with the consent of the Town Manager, entered into a written agreement with the Consultant to furnish unique or specialized professional services necessary for the Project(s) or task(s) described under Additional Services. Such Specialty Subconsultant will be in addition to those identified in Schedule 1.

A4.02 Subconsultant Relationships

A5.02-1 All Services provided by the Subconsultants must be performed pursuant to appropriate written agreements between the Consultant and the Subconsultants, which must contain provisions that preserve and protect the rights of the Town under this Agreement.

A5.02-2 Nothing contained in this Agreement creates any contractual or business relationship between the Town and any Subconsultants. The Consultant acknowledges that Subconsultants are entirely under its direction, control, supervision, retention or discharge.

A4.03 Changes to Subconsultants

The Consultant cannot add, modify, or change any Subconsultant listed in Schedule 1 without prior the written approval by the Town Manager, in response to a written request from the Consultant stating the reasons for any proposed substitution.

A5 DEFAULT

A5.01 General

If Consultant fails to comply with any term or condition of this Agreement, or fails to perform any of its obligations hereunder, then Consultant will be in default. Upon the occurrence of a default hereunder the Town, in addition to all remedies available to it by law, may immediately, upon written notice to Consultant, terminate this Agreement whereupon all payments, advances, or other compensation paid by the Town to Consultant while Consultant was in default must be immediately returned to the Town. Consultant understands and agrees that termination of this Agreement under this section does not release Consultant from any obligation accruing prior to the effective date of termination.

In the event of termination due to default, in addition to the foregoing, Consultant will be liable to the Town for all expenses incurred by the Town in preparing and negotiating this Agreement, as well as all costs and expenses incurred by the Town in the re-procurement of the Services, including consequential and incidental damages. In the event of default, Town may also suspend or withhold reimbursements from Consultant until such time as the actions giving rise to default have been cured.

A5.02 Conditions of Default

A finding of default and subsequent termination for cause may include, without limitation, any of the following:

A5.02-1 Consultant fails to obtain or maintain the required insurance.

A5.02-2 Consultant fails to comply, in a substantial or material sense, with any of its duties under this Agreement, with any terms or conditions set forth in this Agreement or in any agreement it has with the Town, beyond the specified period allowed to cure such default.

A5.02-3 Consultant fails to commence the Services within the time provided or contemplated herein or fails to complete the Services in a timely manner as required by this Agreement.

A5.03 Time to Cure Default; Force Majeure

Town through the Town Manager or designee will provide written notice to Consultant as to a finding of default, and Consultant must take all necessary action to cure said default within time stipulated in said notice, after which time the Town may terminate the Agreement. The Town, at its sole discretion, may allow additional days to perform any required cure if Consultant provides written justification deemed reasonably sufficient.

Should any such failure on the part of Consultant be due to a condition of Force Majeure as the term is interpreted under Florida Law, then the Town may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

A6 TERMINATION OF AGREEMENT

A6.01 Town's Right to Terminate

The Town Manager has the right to terminate this Agreement for any reason or no reason, upon ten (10) days' written notice. Upon termination of this Agreement, all charts, sketches, studies, drawings, and other documents, including all electronic copies related to Services authorized under this Agreement, whether finished or not, must be turned over to the Town. The Consultant will be paid for the Services performed and accepted, provided that said documentation is turned over to Town Manager within ten (10) business days of termination. Failure to timely deliver the documentation will be cause to withhold any payments due without recourse by Consultant until all documentation is delivered to the Town Manager or designee.

Consultant will have no recourse or remedy from a termination made by the Town except to retain the fees earned as compensation for the Services that was performed in complete compliance with this Agreement, as full and final settlement of any claim, action, demand, cost, charge or entitlement it may have, or will, have against the Town, its officials or employees.

A6.02 Consultant's Right to Terminate

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

A6.03 Termination Due to Undisclosed Lobbyist or Agent

Consultant warrants that it 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 Town has the right to terminate this Agreement without liability and, at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

A7 DOCUMENTS AND RECORDS

A7.01 Ownership of Documents

All tracings, drawings, specifications, maps, computer files, reports and any other documents prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, including all electronic digital copies are considered works made for hire and will, based on incremental transfer wherein the above will become the property of the Town upon payments made to Consultant or termination of this Agreement, without restriction or limitation on their use, and will be made available, on request, to the Town at any time during the performance of the Services or upon completion or termination of this Agreement. Consultant must not copyright any material and products or patent any invention developed under this Agreement. The Town has the right to visit the site where the Services are being provided at any time. The Consultant will be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the Town's use and occupancy of the Project.

A7.02 Delivery Upon Request or Cancellation

Failure of the Consultant to promptly deliver all such documents, both hard copy and digital, to the Town Manager within ten (10) days of cancellation, or within ten (10) days of request by the Town Manager, will be just cause for the Town Manager to withhold payment of any fees due Consultant until Consultant delivers all such documents. Consultant will have no recourse from these requirements.

A7.03 Use by the Town

It is understood that all Consultant agreements and Work Orders for new work will include the provision for the re-use of plans and specifications, including construction drawings, at the Town's sole option, and by virtue of signing this Agreement the Consultant agrees to such re-use in accordance with this provision without the necessity of further approvals, compensation, fees or documents being required and without recourse for such re-use. The Consultant will not be liable for re-use by the Town of plans, documents, studies, or other data for any purpose other than that intended by the terms and conditions of this Agreement.

A7.04 Nondisclosure

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without Town Manager'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 rendered by Consultant hereunder, and Consultant will require all of its employees and agents comply with the provisions of this paragraph.

A7.05 Maintenance of Records

Consultant will keep adequate records and supporting documentation, which concern or reflect its services hereunder. Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, must be kept in accordance with statute. Otherwise, the records and documentation will be retained by Consultant for a minimum of three (3) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. Town, or any duly authorized agents or representatives of Town, has 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 three (3) year period noted above; provided, however such activity will be conducted only during normal business hours.

Upon completion of or termination of the Agreement the Consultant, as stated in Chapter 199.701 of the Florida Statutes, transfer, at no cost, to the Town all public records in possession of the Consultant related to the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Town in a format that is compatible with the information technology systems of the Town.

A8 INDEMNIFICATION

The Consultant must hold harmless, indemnify and defend the Town, its officials and employees from any and all claims, losses and causes of actions which may arise out of the performance of this Agreement as a result of any act of negligence or negligent omission, recklessness, or intentionally wrongful conduct of the Consultant. The Consultant must pay all claims and losses of any nature whatsoever in connection therewith and will defend all project related suits, in the name of the Town when applicable, and must pay all costs, including without limitation reasonable attorney's and appellate attorney's fees, and judgments which may issue thereon. The Consultant's obligation under this paragraph will not be limited in any way by the agreed upon Agreement price, or the Consultant's limit of, or lack of, sufficient insurance protection, and will apply to the full extent that it is caused by the negligence, act, omission, recklessness or intentional wrongful conduct of the Consultant, its agents, servants, or representatives.

A9 INSURANCE

The Consultant must not start Services under this Agreement until the Consultant has obtained all insurance required hereunder and the Town has approved such insurance.

A9.01 Companies Providing Coverage

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the Town Manager. All companies must have a Florida resident agent and be rated at least A(X), as per A.M. Best Company's Key Rating Guide, latest edition.

A9.02 Verification of Insurance Coverage

The Consultant must furnish certificates of insurance to the Town Manager for review and approval prior to the execution of this Agreement. The Certificates must 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 award to the Consultant. Consultant must maintain coverage with equal or better rating as identified herein for the term of this Agreement. Consultant must provide written notice to the Town Manager of any material change, cancellation or notice of non-renewal of the insurance within 30 days of the change. Consultant must furnish a copy of the insurance policy or policies upon request of the Town Manager within ten (10) days of written request.

A9.03 Forms of Coverage

A9.03-1 Commercial General Liability and Automobile Liability:

Consultant must maintain commercial general liability coverage with limits of at least \$500,000 per occurrence, \$1,000,000 aggregate for bodily injury and property damage. The coverage must include Premises and Operations, Contingent and Contractual Liability, and Products and Completed Operations, with additional endorsements, as applicable. Coverage must be written on a primary, non-contributory basis with the Town listed as an additional insured as reflected by endorsement CG 2010 11/85 or its equivalence. Notice of cancellation is read (30) days/(10) days for nonpayment.

A9.03-2 Business Automobile:

The Consultant must provide business automobile liability coverage including coverage for all owned, hired and non-owned autos with a minimal combined single limit of \$300,000 naming the Town as an additional insured with respect to this coverage. Notice of cancellation should read (30) days/(10) days for nonpayment.

A9.03-3 Professional Liability Insurance:

The Consultant must maintain Professional Liability Insurance including Errors and Omissions coverage in the minimum amount of \$500,000 per claim, \$500,000 aggregate providing for all sums which the Consultant will be legally obligated to pay as damages for claims arising out of the Services performed by the Consultant or any person employed by the Consultant in connection with this Agreement. This insurance must be maintained for at least one year after completion of the construction and acceptance of the construction and acceptance of any project covered by this Agreement.

A9.03-4 Worker's Compensation Insurance:

Consultant must maintain Worker's Compensation Insurance in compliance with Florida Statutes, Chapter 440, as amended, and Employee's Liability with a minimum limit of \$500,000 each occurrence.

A9.03-5 Subconsultant's Compliance:

The Consultant must ensure that all Sub-consultants comply with these same insurance requirements.

A9.04 Modifications to Coverage

The Town Manager reserves the right to require modifications, increases, or changes in the required insurance requirements, coverage, deductibles or other insurance obligations by providing a thirty (30) day written notice to the Consultant in accordance with Article 10.06 herein. Consultant must comply with such requests unless the insurance coverage is not then readily available in the national market and may request additional consideration from Town accompanied by justification.

A10 MISCELLANEOUS

A10.01 Audit Rights

The Town reserves the right to audit the Consultant's accounts 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 Town Manager, to approve any requests for payment by the Consultant.

A10.02 Entire Agreement

This Agreement, as it may be amended from time to time, represents the entire and integrated Agreement between the Town 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 in accordance with the requirements of the Agreement. Waiver by either party of a breach of any provision of this Agreement will not be deemed to be a waiver of any subsequent or other breach of any provision of this Agreement.

A10.03 Successors and Assigns

The performance of this Agreement must not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Consultant without the written consent of the Town Council or Town Manager, as applicable. It is understood that a sale of the majority of the stock or partnership shares of the Consultant, a merger or bulk sale, an assignment for the benefit of creditors will each be deemed transactions that would constitute an assignment or sale hereunder requiring prior Town approval.

The Consultant's services are unique in nature and any transference without the prior written approval of the Town will be cause for the Town to terminate this Agreement. The Consultant will have no recourse from such cancellation. The Town may require bonding, other security, certified financial statements and tax returns from any proposed Assignee and the execution of an Assignment/Assumption Agreement in a form satisfactory to the Town as a condition precedent to considering approval of an assignment.

The Consultant and the Town 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.

A10.04 Truth-In-Negotiation Certification

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

A10.05 Applicable Law and Venue of Litigation

This Agreement will 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, must be brought in Miami-Dade County, Florida. Each party will bear its own attorney's fees except in actions arising out of Consultant's duties to indemnify the Town under Article A8, where Consultant must pay the Town's reasonable attorney's fees.

A10.06 Notices

Whenever either party desires to give written notice to the other relating to the Agreement, such must be addressed to the party for whom it is intended at the place specified below; and the place for giving the notice will remain until it has been changed by written notice in compliance with the provisions of this Article. Notice will be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice will be deemed given on the date sent via e-mail or facsimile. Notice will be deemed given via courier/delivery service upon the initial delivery date by the courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For Town of Miami:
Edward Pidermann
Town Manager
6601 Main Street

Miami, Florida 33014
pidermanne@miamilakes-fl.gov
With a copy to:

Raul Gastesi
Town Attorney
6601 Main Street
For Consultant:
Manuel Solaun, PE
Project Manager
Stantec Consulting Services
901 Ponce de Leon Boulevard, Suite 900
Coral Gables, FL 33134
Manuel.solaun@stantec.com

Miami, Florida 33014
rgastesi@gastesi.com

A10.07 Interpretation

The headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular 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.

A10.08 Joint Preparation

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

A10.09 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 will prevail over any document incorporated by reference and be given effect.

A10.10 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 performance of the Services, the parties to this Agreement agree all disputes between them will 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 Miami-Dade County, State of Florida. The parties will split the costs of a certified mediator on a 50/50 basis.

In an effort to expedite the conclusion of any litigation the parties voluntarily waive their right to jury trial or to file permissive counterclaims in any action arising under this Agreement.

A10.11 Compliance with Laws

Consultant must comply with all applicable laws, codes, ordinances, rules, regulations and resolutions including, without limitation, the Americans with Disabilities Act (“ADA”), as amended, and all applicable guidelines and standards in performing its duties, responsibilities, and obligations related to this

Agreement. The Consultant represents and warrants that there will be no unlawful discrimination as provided by law in connection with the performance of this Agreement.

A10.11-1 Non-Discrimination:

Town warrants and represents that it does not and will not engage in discriminatory practices and that there will be no discrimination in connection with Consultant's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Consultant further covenants that no otherwise qualified individual will, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

A10.11-2 OSHA Compliance:

The Consultant warrants that it will comply with all OSHA and other safety precautions as required by federal, state or local laws, rules, regulations and ordinances.

A10.11-3 ADA Compliance:

Consultant will affirmatively comply with all applicable provisions of the Americans with Disabilities Act ("ADA") in the course of providing any work, labor or services funded by the Town, including Titles I & II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable regulations, guidelines and standards. Additionally, the Consultant will take affirmative steps to insure nondiscrimination in employment of disabled persons.

A10.12 *No Partnership*

Consultant is an independent contractor. This Agreement does not create a joint venture, partnership or other business enterprise between the parties. The Consultant has no authority to bind the Town to any promise, debt, default, or undertaking of the Consultant.

A10.13 *Discretion of Town Manager*

Any matter not expressly provided for herein dealing with the Town or decisions of the Town will be within the exercise of the reasonable professional discretion of the Town Manager.

A10.14 *Resolution of Disputes*

Consultant understands and agrees that all disputes between it and the Town based upon an alleged violation of the terms of this Agreement by the Town will be submitted for resolution in the following manner.

The initial step will be for the Consultant to notify the Procurement Manager in writing of the dispute identified in Article A11.06, Notices. Consultant must, within five (5) calendar days of the initial notification, all supporting documentation to the Procurement Manager. Failure to submit such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said documentation the Procurement Manager will review the issues relative to the dispute and issue a written finding.

Should the Consultant and the Procurement Manager fail to resolve the dispute the Consultant must submit their dispute in writing within five (5) calendar days to the Town Manager. Failure to submit such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said notification the Town Manager will review the issues relative to the dispute and issue a written finding.

Appeal to the Town Manager for his/her resolution, is required prior to Consultant being entitled to seek judicial relief in connection therewith. Should the amount of compensation require approval or disapproval by the Town Council, Consultant will not be entitled to seek judicial relief unless:

- (i) it has first received Town Manager's written decision, approved by the Town Commission if applicable, or
- (ii) a period of sixty (60) days has expired after submitting to the Town Manager a detailed statement of the dispute, accompanied by all supporting documentation, or a period of (90) days has expired where Town Manager's decision is subject to Town Commission approval; or
- (iii) Town has waived compliance with the procedure set forth in this section by written instrument(s) signed by the Town Manager.

A10.15 Contingency Clause

Funding for this Agreement is contingent on the availability of funds and continued authorization for activities and the Agreement is subject to amendment or termination due to lack of funds, reduction of funds or change in regulations, upon thirty (30) days' notice.

A10.16 Third Party Beneficiary

Consultant and the Town agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

A10.17 No Estoppel

Neither the Town's review, approval or acceptance of, or payment for Services performed under this Agreement will be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the Consultant will be and remain liable to the Town in accordance with applicable laws for all damages to the Town caused by the Consultant's negligent performance of any of the Services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

END OF SECTION

SECTION B - SPECIAL TERMS & CONDITIONS

B1 TERM

The term of this Agreement will be effective with the execution of the Agreement and terminate upon final payment being made to the Consultant.

B2 SCOPE OF SERVICES

B2.01 Project Description

This project is located in the Town of Miami Lakes, approximately 700 feet to the north of NW 151st street. This project includes the design, permitting, coordination, and construction phase services for the construction of the NW 59th Avenue bridge, as well as the connecting roadways from the bridge to NW 151st street to the south and to NW 59th avenue to the north. The following includes descriptions of the anticipate roadway and bridge work:

- **Roadway** – The roadway is anticipated to be 1,280 linear feet. The north segment consists of approximately 490 linear feet of roadway connecting the proposed bridge to NW 59th Avenue and the south segment consisting of 790 linear feet of roadway connecting the proposed bridge to NW 151st Street. Both roadway segments will consist of approximately 70 feet right-of-way width and will include two (2) vehicular lanes, two (2) bike lanes, sidewalks and connections to existing roadways and driveways. Additionally, the south segment is to include a turning lane at the intersection of NW 59th Court and NW 151st Street.
- **Bridge** – The bridge is anticipated to be approximately 65 feet in width, 150 feet in length, and is to consist of two (2) vehicle lanes, two (2) bike lanes, sidewalks, barriers and roadway approaches. The bridge is to connect the existing NW 59th Avenue right-of-way to a proposer right-of-way- to the south. The bridge is to be constructed over the South Florida Water Management District's Biscayne C-8 Canal. Approximately 50 feet of approach on both sides of the bridge are to be designed as a part of this scope and are to be coordinated with the design of the connecting rights-of-way.

B2.02 Project Scope

The Consultant will assist in the planning, design, and implementation of the Project, which includes, but is not limited to, providing analysis of the project, design documents, construction documents, permitting assistance, bid assistance and construction administration services as further defined below. The Town anticipates, without limiting, the Project will require design services within the following disciplines: structural and civil engineering. Consultant will provide these services in accordance with Section 287.055 of Florida Statutes, as amended, Consultants' Competitive Negotiations Act (CCNA).

B2.02-1(a) Task 1 – Public Outreach

Consultant shall conduct one (1) presentation to elected officials, advisory boards, staff, and/or the public, if necessary.

B2.02-1(b) Task 2 – Pre-Design Services

Consultant shall collect data for the design and permitting phases of the project, define project limits, quality control program and establish communications with the parties and agencies known to Consultant that shall be involved or affected by the project. Consultant shall review all existing features within the project limits for the functional design and determine if any exceptions are appropriate. Specific tasks shall consist of the following:

- One (1) kick-off meeting with the Town to define project elements, phasing requirements and project issues. Consultant shall provide meeting minutes for the meeting within ten (10) business days following the meeting date.
- Consultant shall conduct a field review of the project site.
- Town shall provide a topographic survey for the project limits. Any additional surveying needed shall be provided by the Consultant and possibly to include, but not be limited to bathymetry to determine channel bottom, known utilities, water boundary, existing asphalt and concrete limits, right-of-way topography and boundaries.
- Consultant shall assist the Town in determining if any recorded easements are needed.
- The geotechnical subconsultant shall perform bore hole permeability test per South Florida Water Management District (SFWMD) standards. Prior to drilling at the site, local utility companies will be notified and asked to mark utilities. Upon completion of the field-testing, reports will be issued which contain test results. Consultant shall determine number of bore hole permeability tests needed for the project design.
- The geotechnical subconsultant shall perform a geotechnical evaluation report to include geotechnical design recommendation to support the bridge design. Consultant shall identify any tests that may be necessary to carry out a sound design.
- Any additional geotechnical services needed shall be the Consultant's responsibly.
- Consultant shall request existing utility information from utility providers within the project area. All existing utilities identified are to be included in the construction documents.
- Consultant shall determine if any utilities are needed and shall include them in the design as necessary.
- Consultant will review alternative structural systems for the design as well as review feasibility, preliminary system components and cost with the Town.
- Consultant shall prepare a bridge layout and site plan including approach for Town review. Bridge layout shall identify any design restrictions in lack of right-of-way or unusual roadway approach configurations. Bridge layout and site plan shall include roadway/bridge profiles, alignment and geometry. Consultant is to confirm right-of-way availability to complete designs in accordance with desirable bridge and roadway cross-section.
- Consultant shall develop a project design schedule.
- Consultant shall establish alignment and project controls.

Task 1 and 2 Deliverables: Agenda and minutes of all meetings, one (1) electronic copy of survey, one (1) electronic copy of each geotechnical report, one (1) electronic copy of schedule and one (1) electronic copy of 24"x36" bridge layout plant.

B2.02-1(c) Task 3 – 30% Design Development

- Consultant shall prepare thirty percent (30%) design development engineering plans.
- Consultant shall prepare a preliminary cost estimate based on the thirty percent (30%) design development plans. Consultant shall be responsible for updating the cost estimate when scope changes occur at milestones of the project design development and permitting.
- Consultant shall prepare a photometric lighting analysis to determine if and where additional lighting will be needed.

B2.02-1(d) Task 4 – 60% Design Development

- Consultant shall prepare a sixty percent (60%) design development/permit plan set to include sixty percent (60%) progress design. Plan set shall be used for permitting and shall include design and features necessary for agency review.
- Consultant shall prepare a preliminary cost estimate based on the 60% design development plans. Consultant shall be responsible for updating the cost estimate when scope changes occur at milestones of the project design development and permitting.
- Consultant shall prepare a draft bridge development report to include an assessment of existing conditions, design notes, data and calculations compiled in an executive summary format to document and describe the design conclusions reached during development.
- Consultant shall prepare a drainage analysis and report for submittal to permit agencies. Consultant shall field inspect existing drainage features and make recommendations concerning repairs, extensions, replacement/upgrade or removal of existing drainage features. Consultant shall also provide analysis for any necessary drainage features needed to meet applicable criteria for the project.
- Consultant shall evaluate the existing signage to determine the need for additional signs, correcting redundant or conflicting signage and the replacement of damaged signs.
- Consultant shall review the need for embankment and design necessary stabilization.
- Consultant shall design electrical and lightning, if required, per photometric calculations.
- Consultant shall prepare technical specifications in a format chosen by the Town to sixty percent (60%) completion. Contract or “Front End” documents shall be provided by the Town and reviewed by Consultant for conformance with the specifications and design plans.

Task 4 Deliverables: one (1) electronic copy of cost estimate, one (1) electronic copy of 24”36” 60% design development plans, one (1) electronic copy of technical specifications, one (1) electronic CAD file of drawings, one (1) electronic copy of structural design calculations, one (10) electronic copy of bridge hydraulic analysis and one (1) electronic copy of drainage calculations.

B2.02-1(e) Task 5 – Permitting

- Consultant shall collect all of the data and information necessary to prepare the permit applications and obtain the permits required to construct the Project as identified in Section 3.02, Project Description. Consultant shall prepare responses and design revisions to comments received by agencies. Anticipated approvals from the following agencies are expected:
 - Miami-Dade Department of Environmental Resource Management
 - Florida Department of Environmental Protection
 - South Florida Water Management District (SFWMD)
 - U.S. Army Corps of Engineering
 - Miami-Dade Public Work
 - Miami-Dade County Environmental Resources Management
 - The Town of Miami Lakes

Task 5 Deliverables: one (1) electronic copy of permit packages

B2.02-1(f) Task 6 – Construction Documents

Consultant shall prepare construction documents for the proposed development based on Town input to be used for bidding. Specific tasks shall consist of the following:

- Consultant shall prepare engineering plans for bidding and construction. The anticipated plan set shall include the following sections:
 - Survey
 - Site Plan and Bridge Layout
 - Storm Water Pollution Prevention Plan
 - Demolition Plan
 - Bridge and Roadway Plan
 - Drainage Plan
 - Utility Plan (if applicable)
 - Signing and Marking Plan
 - Lighting Plan (if applicable)
- Consultant shall prepare technical specifications in a format chosen by the Town for inclusion into the Town’s construction documents. Contract or “Front End” documents will be provided by the Town and reviewed by Consultant for conformance with the specifications and design plans.
- Consultant shall update the project cost estimate to reflect quantities shown in the construction documents. Consultant shall be responsible for updating the cost estimate when scope changes occur at milestones of the project design development and permitting.
- Consultant shall prepare a final bridge development report to include an assessment of existing conditions, design notes, data and calculations to document and describe the design conclusions reached during development.

Task 6 Deliverables: One (1) electronic copy of cost estimate, one (1) electronic copy of 24”36” engineering plans (full-size hard copies of plans shall be provided at the Town’s request), one (1) electronic copy of technical specifications (hard copies of specifications shall be provided at the Town’s request), one (1) electronic CAD file of drawings and one (1) electronic copy of bridge development report.

B2.02-1(g) Task 7 – Pre-Construction Services

Consultant shall consult with and advise the Town of the proposed improvements during the bidding process. Specific tasks shall consist of the following:

- Consultant shall prepare bid forms in format provided by the Town.
- Consultant shall attend one (1) pre-bid meeting.
- Consultant shall provide response to bidders RFIs within five (5) business days of receipt during the bidding process. Consultant shall issue applicable addenda in response to contractor questions or RFIs during the bid process. All responses by Consultant shall be approved by the Town prior to issuance.
- Consultant shall review bids and provide a recommendation to the Town. The Town will be responsible for making the award.

Task 7 Deliverables: One (1) electronic editable copy of bid form

B2.02-1(h) Task 8 – Construction Phase Services

Consultant shall provide construction phase services. Specific tasks shall consist of the following:

- Consultant shall attend one (1) construction kick-off meeting.
- Consultant shall review shop drawings, samples and other data that each Contractor is required to submit. Consultant is to consult with and advise Town as to the acceptability of substitute materials and equipment that are proposed by Contractor.
- Consultant shall attend construction progress meetings at a mutually agreed upon schedule and provide an agenda and meeting minutes for each meeting. Meeting minutes are to be published within ten (10) business days following the meeting date.
- Consultant shall furnish a resident project representative to observe the progress of the work of the Contractor. The resident project representative shall visit the site an average of once per week during construction. The resident project representative shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor. During such visits and on the basis of on-site observations, Consultant shall keep the Town informed of the progress of work, shall endeavor to protect the Town against defects and deficiencies in such work and may disapprove or reject work if it fails to conform to the Contract Documents.
- Consultant shall provide responses to construction RFIs within ten (10) business days of receipt. Consultant shall issue plan revisions as needed.
- Consultant shall assist the Town with agency coordination for construction revisions as necessary.
- Consultant shall provide contract clarification as well as issue interpretations and clarifications of the plans and specifications. Consultant shall review change orders as required.
- Consultant shall review Contractor's pay applications based on field observations. Consultant shall work with the Town to determine the amounts owed to the Contractor.
- Consultant shall review the project and determine if it is substantially complete and conduct a final review to determine that work has been completed in accordance to the Contract Documents. Consultant shall recommend in writing final payment and give written notice to the Town and Contractor that the work is acceptable.
- Consultant shall review project drawings prepared, provided and certified by Contractor. One (1) final set of project as-builts shall be provided to the Town.
- Consultant shall prepare any necessary permit close-out submittals for engineering permits.
- Consultant shall assist Town in recording any necessary easements for the project.

B2.02-1(i) Task 9 – Project Coordination

- Consultant may hire subconsultants to be used for portions of the required services. However, the primary Consultant shall be responsible for all of the work performed.
- Consultant shall provide utility coordination with any affected utility companies.
- Consultant shall provide agency meeting coordination for agencies requiring approval under this scope of work.
- Consultant shall follow a mutually agreed upon schedule for project submittals. Consultant shall coordinate the design of this project phase with connecting designs.

END OF SECTION

B3 ADDITIONAL SERVICES

B3.01 General

Services categorized below as “Additional Services” may be specified and authorized by Town and are normally considered to be beyond the scope of the Basic Services. Additional Services must be authorized in a Work Order and will be compensated for as provided in Section C, Compensation and Payments.

B3.02 Examples

Except as may be specified in this Agreement, Additional Services may include, but are not limited to the following:

B3.02-1

Appraisals: Investigation and creation of detailed appraisals and valuations of existing facilities, and surveys or inventories in connection with construction performed by Town.

B3.02-2

Specialty Design: Any additional special professional services not included in the Scope of Services.

B3.02-3

Extended Testing & Training: 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 Town’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. Provide Commissioning Services as part of systems start-up.

B3.02-4

Major Revisions: Making major revisions to drawings and specifications resulting in or from a change in Scope of Work, when such revisions are inconsistent with written approvals or instructions previously given by Town and are due to causes beyond the control of Consultant. (Major revisions are defined as those changing the Scope of Work and arrangement of spaces and/or scheme and/or any significant portion thereof).

B3.02-5

Expert Witness: Preparing to serve or serving as an expert witness in connection with any arbitration proceeding or legal proceeding, providing, however, that Consultant cannot testify against Town in any proceeding during the course of this Agreement.

B3.02-6

Miscellaneous: Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted structural and civil engineering practice related to construction.

B3.03 Additional Design

The Town may, at its option, elect to proceed with additional design work, which must be handled in accordance with the requirement for Additional Services.

B4 REIMBURSABLE EXPENSES

B4.01 General

Reimbursable Expenses cover those services and items authorized by Town in addition to the Basic and Additional Services and consist of actual, direct expenditures made by Consultant and the Subconsultant for the purposes listed below. Transportation, travel and per diem expenses within Dade, Broward, or Palm Beach Counties must not be considered as reimbursable expenses under this Agreement.

Additional Reimbursable Expenses include, but are not limited to:

- a. Communications Expenses: Identifiable communication expenses approved by the Project Manager, long distance telephone, courier and express mail between Consultant's various permanent offices and Subconsultant. Consultant's field office at the Project site is not considered a permanent office.
- b. Reproduction, Photography: Cost of printing, reproduction or photography, beyond that which is required by or of Consultant's part of the work, set forth in this Agreement.
- c. Surveys: Site surveys and special purpose surveys costs authorized by the Town.
- d. Geotechnical Investigation: Identifiable Soil Borings and Reports and testing costs authorized by the Town.
- e. Fees: All permit fees, review fees and other similar fees paid to regulatory agencies for approvals directly attributable to the Project.

B4.02 Subconsultant Reimbursables

Reimbursable Subconsultant expenses are limited to the items described above when the Subconsultant's agreement provides for reimbursable expenses and when such agreement has been previously approved, in writing, by the Town Manager and subject to all budgetary limitations of the Town and requirements of this Agreement.

END OF SECTION

SECTION C - COMPENSATION AND PAYMENTS

C1 METHOD OF COMPENSATION

The fees for Professional Services for the Project and each Work Order must be determined by one of the following methods or a combination thereof, at the option of the Town Manager or designee, with the consent of the Consultant.

- a) A Lump Sum, which may include not to exceed components in accordance with Section C4.01 below.
- b) An Hourly Rate, in accordance with Section C4.02 below and at the rates set forth in the Agreement.
- c) A Percentage of Construction Cost, in accordance with Section C4.03 below.

Work Orders for Additional services will be determined by one of the following methods or a combination thereof, at the option of the Town Manager or designee, with the agreement of the Consultant.

- a) A Lump Sum, which may include not to exceed components in accordance with C4.01 below.
- b) An Hourly Rate, in accordance with C4.02 below and at the rates set forth in the Agreement.

C2 COMPENSATION LIMITS

The amount of compensation payable by the Town to Consultant will generally be a lump sum not to exceed fee, based on the rates and schedule established in Schedules 1 & 2; provided, however, that in no event will the amount of compensation exceed six hundred twenty-six thousand seven hundred eighty (\$626,780) in total over the term of the Agreement and any extension(s), unless explicitly approved by action of the Town Council or Town Manager as applicable and put into effect by written amendment to this Agreement.

Under no circumstances will the Town have any liability for Services performed, or as otherwise may be alleged or claimed by Consultant, beyond the cumulative amount stated above, except where specifically approved in accordance with the Town's Procurement Ordinance, either by the Town Manager or Town Council, as applicable, as an increase to the Agreement and put into effect via an amendment to this Agreement.

C3 WAGE RATES

C3.01 Fee Basis

All fees and compensation payable under this Agreement must be formulated and based upon the certified negotiated Wage Rates stated in Schedule 2 of the Agreement. Said Wage Rates are the effective direct hourly rates, as approved by the Town, of Consultant and Subconsultant employees in the specified professions and job categories that are to be utilized to provide the services under this Agreement, regardless of manner of compensation.

Should the Consultant intend to utilize personnel or Subconsultants for the Project where the Wage Rates have not been established, the Consultant must request that the Town add the person or Subconsultant's wage rates to Schedule 2. The Town may require that the Consultant provide documentation substantiating the request.

C3.02 Employees and Job Classifications

Form KS identifies the professions, job categories and/or employees expected to be used during the term of this Agreement. These may include engineers, landscape architects, professional interns, designers, CADD technicians, project managers, GIS and environmental specialists, specification writers, clerical/administrative support, and others engaged in the Work. In determining compensation for a given

Scope of Work, the Town reserves the right to recommend the use of Consultant employees at particular Wage Rate levels. Consultant must not utilize any profession, job category or employees that do not appear on Form KS. Consultant must submit a request to the Town to add such to Form KS prior to utilizing said profession, job category, or employees for Services under this Agreement.

C3.03 Multiplier

For Work assigned under this Agreement, a maximum multiplier of 2.9 for home office and 2.4 for field must apply to Consultant's hourly Wage Rates in calculating compensation payable by the Town. Should the Consultant have an approved multiplier with the State of Florida or Miami Dade County, the Town may elect to utilize either of these multipliers should they be less than above stipulated rates. Said multiplier is intended to cover Consultant's employee benefits (e.g. sick leave, vacation, holiday, unemployment taxes, retirement, medical, insurance and unemployment benefits) and Consultant's profit, and overhead including, without limitation, office rent, local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, stenographic, administrative and clerical support, management and supervisory responsibilities, time or travel and subsistence not directly related to a Project. The multiplier **must not be applied** to the Principal, owner, or partner of the Consultant except where they are preparing drawings or specifications, preparing a study report, or similar tasks.

The Town may request at any time during the term of the Agreement that the Consultant provide updated information to validate its multiplier. It is the responsibility of the Consultant to notify the Town whenever circumstances that will result in a change to the multiplier.

C3.04 Calculation

Said Wage Rates are to be utilized by Consultant in calculating compensation payable for Additional Services requested by Town or where the Consultant proposes to add additional staff. Consultant must identify job classifications, available staff and projected man-hours required for the proper completion of tasks and/or groups of tasks, milestones and deliverables identified in a request for Additional Services.

C3.05 Wage Rate Adjustments

There will be no wage rate adjustments permitted under this Agreement.

C4 COMPUTATION OF FEES AND COMPENSATION

The Town 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 above, as applicable, in the following manner:

C4.01 Lump Sum

Compensation for a Scope of Work will typically be a Lump Sum, either a Fixed Fee or Not to Exceed Fee as deemed appropriate by the Town, to be mutually agreed upon in writing by the Town and the Consultant. Lump Sum, and Lump Sum not to Exceed methods of compensation are the preferred methods of compensation. The Lump Sum or Lump Sum Not to Exceed Fees will be calculated utilizing the Wage Rates established in Schedule 2. Such Fee(s) will be subject to validation by the Town and the Town may request additional information to substantiate the Fee(s).

C4.01-1 Lump Sum Fixed Fee: must be the total amount of compensation to be paid to the Consultant for the Services performed on the Project, or phase or task of the Project or Work Order for Additional Services. Payments to the Consultant must be based on a percentage of completion basis.

C4.01-2 Lump Sum Not to Exceed Fee must establish the maximum amount of compensation to be paid to the Consultant for the Services performed on the Project as a whole, or a phase/task of the Project or Work Order issued for Additional Services. Payments to the Consultant must be based on the actual work effort required to complete the Project, phase or task.

C4.01-3 Guaranteed Maximum Lump Sum: must be the total maximum fee amount payable by Town wherein certain aspects, tasks or allowances may not be defined, quantified and calculated at the time of execution of the Agreement or Work Order issuance for Additional Services. A Guaranteed Maximum Lump Sum compensation may represent a combination of Fixed Fees for professional services and not to exceed allowances for Reimbursable Expenses or Additional Services.

C4.01-4 Lump Sum Fee Adjustment: Where the Town authorizes a substantial or material change in the Scope of Work, the Lump Sum Base Fee may be equitably adjusted by mutually consent of the parties, which must be reflected in an amendment to the Agreement.

C4.02 Hourly Rate Fees

Hourly Rate Fees must be those rates for Consultant and Subconsultant employees identified in Schedule 2 Wage Rates. All hourly rate fees will include a maximum not to exceed figure, inclusive of all costs expressed in the contract documents. The Town must have no liability for any fee, cost or expense above this figure. The Town will have no liability for any fee, cost or expense above this figure except the addition of the multiplier, which is identified as the "Loaded Hourly Rate".

The Loaded Hourly Rate Fees will be used to quantify or calculate the complete nature, or aspects, tasks, man-hours, or milestones for a task, phase or Work Order for Additional Services. The Town may establish an allowance in a task, phase or Work Order for Additional Services that will serve as a Not to Exceed Fee for the Services to be performed on an Hourly Rate Basis.

Consultant must maintain records acceptable to the Town to track the hours of work performed by each person.

C4.03 Reimbursable Expenses

Any fees for authorized reimbursable expenses must not include charges for any expenses identified in Article C3.03, Multiplier. All reimbursable services must be billed to the Town at direct cost expended by the Consultant. Town authorized reproductions in excess of sets required at each phase of the Work will be a Reimbursable Expense.

The Town will reimburse the Consultant for authorized Reimbursable Expenses pursuant to the limitations of this Agreement as verified by supporting documentation deemed appropriate by Town Manager or designee including, without limitation, detailed bills, itemized invoices and/or copies of cancelled checks.

Article C6 contains additional information on the payment of Reimbursable Expenses.

C4.04 Fees for Additive or Deductive Alternates

The design of additive and deductive alternates contemplated as part of the original Scope for a Project as authorized by the Town Manager will be considered as part of Basic Services. The design of additive and deductive alternates that are beyond the original Scope of Work and construction budget must be authorized through a Work Order and must be billed to Town as Additional Services. The fees for alternates will be calculated by one of the three methods outlined above, as mutually agreed by the Town Manager and the Consultant.

C4.05 Fees for Additional Services

The Consultant may be authorized to perform Additional Services for which additional compensation and/or Reimbursable Expenses, as defined in this Agreement under Sections C4.03 and C4.05 respectively, may be applicable.

C4.05-1 Determination of Fee

The compensation for such services will be one of the methods described herein: mutually agreed upon Lump Sum; Hourly Rate with a Not to Exceed Limit, or Percentage of Construction Cost.

C4.05-2 Procedure and Compliance

An independent and detailed Work Order or an Amendment to a previously issued Work Order must be required to be issued and signed by the Town Manager for each additional service requested by the Town. The Work Order will specify the fee for such service and upper limit of the fee, which must not be exceeded, and must comply with the Town's regulations, including the Purchasing Ordinance, the Consultant's Competitive Negotiation Act, and other applicable laws.

C4.06 Payment Exclusions

Consultant must not be compensated by Town for revisions and/or modifications to drawings and specifications, for extended construction administration, or for other work when such work is due to errors or omissions of Consultant as determined by Town.

C4.07 Fees Resulting from Project Suspension

If a Project is suspended for the convenience of the Town for more than three (3) months or terminated without any cause in whole or in part, during any Phase, the Consultant must be paid for services duly authorized, performed prior to such suspension or termination, together with the cost of authorized reimbursable services and expenses then due, and all appropriate, applicable, and documented 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 must be subject to renegotiations.

C5 PAYMENTS TO THE CONSULTANT

C5.01 Payments Generally

Payments for Basic Services may be requested monthly in proportion to Services performed during each Phase of the Work. Subconsultant fees and Reimbursable Expenses must be billed to the Town in the actual amount paid by Consultant. Consultant must utilize the Town standard Consultant Invoice Form that will be provided to the Consultant.

Payment will be made in accordance with Florida Statute Chapter 218, Part VII, Local Government Prompt Payment Act, after receipt of Consultant's invoice, after receipt of Consultant's invoice, which must be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should Town require one to be performed. If Consultant is entitled to reimbursement of travel expenses, then all bills for travel expenses must be submitted in accordance with Section 112.061, Florida Statutes. Consultant must submit all requests for payment using the Town's standard Consultant Invoice form.

C5.02 For Comprehensive Basic Services

For those Projects and Work Orders containing multiple phases or task, payments must not exceed the amount stipulated for each phase and the aggregate payment must not exceed the total value of the Agreement.

C5.03 Billing – Hourly Rate

Invoices submitted by Consultant must be sufficiently detailed and accompanied by supporting documentation to allow for proper audit of expenditures. When Services are authorized on an Hourly Rate basis, the Consultant must submit for approval by the Town Manager, a duly certified invoice, giving names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a Project, phase or task. Reimbursable Services Cost should then be added to the sum for the total charges for the personnel. The Consultant must attach to the invoice all supporting data for payments made to and incurred by Subconsultants engaged on the Project. In addition to the invoice, the Consultant must, for Hourly Rate authorizations, submit a progress report giving an update on the completion of the Project and/or the applicable phase or task.

C6 REIMBURSABLE EXPENSES

C6.01 General

Reimbursable Expenses are those items authorized by the Town outside of or in addition to the Scope of Work as identified in the Work Order (as Basic Services and/or Additional Services) and consist of actual expenditures made by the Consultant and the Consultant's Subconsultants for the following:

C6.01-1 Transportation:

Identifiable transportation expenses in connection with the Project, subject to Section 112.061, Florida Statutes, as amended, excluding, however, all, general automobile transportation expenses within Miami-Dade, and Broward counties. Transportation expenses to locations outside the Miami-Dade-Broward-Palm Beach County area or from locations outside the Miami-Dade-Broward area will not be reimbursed unless specifically pre-authorized in writing by the Town Manager.

C6.01-2 Travel and Per Diem:

Identifiable per diem, meals and lodging, lodging, taxi fares and miscellaneous travel-connected expenses for Consultant's personnel are subject to Section 112.061 Florida Statutes as amended. Meals for class C travel inside Miami-Dade or 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 five (5) consecutive working days. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Howard Johnson or Ramada Inn. Governmental lodging or meals will not be reimbursed that result from travel within Miami-Dade, Broward or Palm Beach Counties. Travel and per diem expenses are subject to the prior approval of the Town Manager.

C6.01-3 Communication Expenses:

Identifiable communication expenses approved, in writing and in advance by the Town Manager, including 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. Express mail or courier services are to be used only where there are significant time constraints.

C6.01-4 Reproduction, Photography:

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

C6.01-5 Permit Fees:

All Permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required to be paid by the construction Contractor.

C6.02 Reimbursements to Subconsultants

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 Town Manager and subject to all budgetary limitations of the Town and requirements of this Agreement.

SAMPLE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

WITNESS/ATTEST

Consultant, Stantec Consulting Services, Inc.

Signature

Signature

Print Name, Title

Print Name, Title of Authorized Officer or Official

ATTEST:

(Corporate Seal)

Consultant Secretary
(Affirm Consultant Seal, if available)

ATTEST:

Town of Miami Lakes, a municipal corporation of the
State of Florida

Gina Inguanzo, Town Clerk

Edward Pidermann, Town Manager

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Raul Gastesi, Town Attorney

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

I HEREBY CERTIFY that at a meeting of the Board of Directors of _____, a corporation organized and existing under the laws of the State of _____, held on the ___ day of _____, _____, a resolution was duly passed and adopted authorizing (Name) _____ as (Title) _____ of the corporation to execute agreements on behalf of the corporation and providing that his/her execution thereof, attested by the secretary of the corporation, is the official act and deed of the corporation. I further certify that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20_____.

Secretary: _____

Print: _____

NOTARIZATION

STATE OF _____)

) SS:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who (did / did not) take an oath.

SIGNATURE OF NOTARY PUBLIC
STATE OF FLORIDA

PRINTED, STAMPED OR TYPED
NAME OF NOTARY PUBLIC

SECTION D - FORMS & SCHEDULES

FORM KS – KEY STAFF

NAME	JOB CLASSIFICATION
Manuel Solaun	Project Manager
Sean Compel	Senior Engineer
Carlos Herdocia	Senior Engineer
Mohit Soni	Senior Engineer
Marianela Garcia	Senior Structural Engineer
Robert Fohrenbach	Engineer
Rodrigo Morales	Senior Technician
Mayra Saavedra	Technician
Sandra Hodge	Public Inv. Officer
Jessica Perez	Administrative
Nicole Carter	Chief Scientist
Brooke Wolfe	Sr. Env. Scientist
G. Burke	Env. Scient

SCHEDULE 1 – COMPENSATION SUMMARY & TIMEFRAME

Task No.	Major Task and/or Activity	Days to complete task from NTP	Fee Amount
1	Public Outreach	NTP+6 weeks	\$9,550
2	Pre-Design Services	NTP+6 weeks	\$96,060
3	30% Design Development	NTP+18 weeks	\$93,050
4	60% Design Development	NTP+30 weeks	\$128,050
5	Permitting	NTP+65 weeks	\$62,610
6	Construction Documents	NTP+74 weeks	\$98,310
7	Pre-Construction Services	NTP+52 weeks	\$6,850
8	Construction Phases Services	NTP+130 weeks	\$121,800 (NTE)
9	Project Coordination	NTP+130 weeks	\$10,500
	Total Basic Services		\$626,780

SCHEDULE 2 - WAGE RATES SUMMARY

JOB CLASSIFICATION	BASE HOURLY RATE
Project Manager	\$180.00
Senior Engineer	\$170.00
Chief Scientist	\$170.00
Senior Engineer	\$160.00
Sr. Env. Scientist	\$135.00
Engineer	\$125.00
Senior Inspector	\$125.00
Senior Inspector	\$120.00
Senior Technician	\$120.00
Env. Scient/Sr. Tech	\$105.00
Technician	\$90.00
Public Inv. Officer	\$105.00
Administrative	\$75.00
Accepted Multiplier = 1.0	

EXHIBIT A – CONSULTANT’S WORK ORDER PROPOSAL

SAMPLE