

CONTINUING PROFESSIONAL CONSULTING AGREEMENT
BETWEEN
CITY OF ORLANDO, FLORIDA
AND
RHODES & BRITO ARCHITECTS, INC d/b/a RHODES+BRITO ARCHITECTS

Initial Term: 3/15/25 to 3/14/27
Renewal Option: 3/15/27 to 3/14/28

TABLE OF CONTENTS

CONTINUING PROFESSIONAL CONSULTING AGREEMENT

	<u>Page No.</u>
SECTION 1 - BASIC SERVICES OF CONSULTANT	1
1.1 GENERAL	1
1.2 STUDY AND REPORT PHASE	2
1.3 PRELIMINARY DESIGN PHASE	2
1.4 FINAL DESIGN PHASE	3
1.5 BIDDING OR NEGOTIATING PHASE	4
1.6 CONSTRUCTION PHASE	4
1.6.1 <u>General</u>	4
1.6.2 <u>Pre-Construction Meeting</u>	4
1.6.3 <u>Work in Progress</u>	4
1.6.4 <u>Defective Work</u>	5
1.6.5 <u>Shop Drawings</u>	5
1.6.6 <u>Interpretations and Clarifications</u>	6
1.6.7 <u>Substitutes</u>	6
1.6.8 <u>Inspections and Tests</u>	6
1.6.9 <u>Applications for Payment</u>	6
1.6.10 <u>Review Record Drawings</u>	7
1.6.11 <u>Track Progress of Contractor</u>	7
1.6.12 <u>Minimize Claims</u>	7
1.6.13 <u>Resolve Construction-Related Operational Difficulties</u>	7
1.6.14 <u>Contractor(s) Completion Documents</u>	7
1.6.15 <u>Inspections</u>	8
1.6.16 <u>Limitation of Responsibilities</u>	8
1.6.17 <u>Subcontractors and Subconsultants</u>	8
SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT	8
2.1 GENERAL	8
SECTION 3 - CITY'S RESPONSIBILITIES	11
3.1 REQUIREMENTS FOR THE PROJECT	11
3.2 INFORMATION PERTINENT TO THE PROJECT	11
3.3 ACCESS TO PROPERTY	11
3.4 EXAMINATION	11
3.5 APPROVALS AND PERMITS	11
3.6 OTHER PROFESSIONAL SERVICES	11
3.7 CITY PROJECT MANAGER	12
3.8 NOTICE AND EXTENSION OF TERM	12
3.9 CITY'S CONSTRUCTION MANAGEMENT	12
3.10 ADDITIONAL SERVICES	13
3.11 INCIDENTAL COSTS	13
SECTION 4 - PERIOD OF SERVICE	13

4.1 CONTINUING CONTRACT.....	13
4.2 SERVICES AUTHORIZATION.....	13
SECTION 5 - PAYMENTS TO CONSULTANT.....	13
5.1 GENERAL.....	13
5.2 METHODS OF COMPENSATION.....	13
5.2.1 <u>Wage Cost Multiplier</u>	14
5.2.2 <u>Lump Sum</u>	15
5.3 REIMBURSABLE EXPENSES.....	15
5.4 PAYMENTS BY OWNER.....	15
5.5 RECORDS.....	15
5.6 LATE PAYMENT.....	16
5.7 OVERTIME.....	16
5.8 SCOPE, COST AND FEE ADJUSTMENT.....	16
5.8.1 <u>General</u>	16
5.8.2 <u>Scope Reduction</u>	16
5.8.3 <u>Scope Suspension</u>	16
5.9 SALES TAX.....	17
5.10 PAYMENT WITHHELD.....	17
5.11 TERMINATION.....	17
5.12 FINAL PAYMENT.....	17
5.13 LIVING WAGE.....	18
SECTION 6 - CONSTRUCTION COST AND OPINIONS OF COST.....	18
6.1 CONSULTANT'S CONSTRUCTION COST, GENERAL.....	18
6.2 CONSULTANT'S ESTIMATE OF PROBABLE CONSTRUCTION COST.....	18
6.2.1 <u>General</u>	18
6.2.2 <u>Construction Cost</u>	19
SECTION 7 - SETTLEMENT OF CLAIMS.....	19
SECTION 8 - TERMINATION.....	19
8.1 GENERAL.....	19
8.2 FAILURE TO PERFORM.....	20
8.3 TERMINATION FOR CONVENIENCE.....	20
8.4 PAYMENT UPON TERMINATION.....	20
8.5 DELIVERY OF MATERIALS UPON TERMINATION.....	20
SECTION 9 – [RESERVED].....	21
SECTION 10 - MATERIALS, REUSE OF DOCUMENTS, AND CONFIDENTIALITY.....	21
10.1 GENERAL.....	21
SECTION 11 - NOTICES.....	21
SECTION 12 - CONFLICTS OF INTEREST.....	22
SECTION 13 - WAIVER OF CLAIM.....	22
SECTION 14 – CITY REPRESENTATIVE.....	22
SECTION 15 - CONSULTANT'S PROJECT TEAM.....	23
SECTION 16 - INDEMNIFICATION AND INSURANCE.....	23

16.1 INDEMNIFICATION AND REPAIR OF DAMAGE.	23
16.1.1 <u>Consultant's Indemnification of City.</u>	23
16.2 INSURANCE.	23
16.2.1 <u>General.</u>	23
16.2.2 <u>Certificates of Insurance.</u>	24
16.2.3. <u>Additional Insureds.</u>	24
16.2.4 <u>Waiver of Subrogation.</u>	24
16.2.5 <u>Types of Coverage to be Provided.</u>	24
16.2.5.1 <u>Workers' Compensation and Employer's Liability.</u>	24
16.2.5.2 <u>Comprehensive Automobile Liability.</u>	25
16.2.5.3 <u>Commercial General Liability.</u>	25
16.2.6 <u>City's Right to Inspect Policies.</u>	25
SECTION 17 - MISCELLANEOUS PROVISIONS	25
17.1 NON-EXCLUSIVE CONTRACT.	25
17.2 LOCAL, STATE AND FEDERAL OBLIGATIONS.	26
17.2.1 <u>Discrimination.</u>	26
17.2.2 <u>Compliance with Law.</u>	26
17.2.3 <u>Licenses.</u>	26
17.2.4 <u>Compliance With New Regulations.</u>	26
17.2.5 <u>License Fee and Royalties.</u>	27
17.3 CONSULTANT NOT AGENT OF CITY.	27
17.4 SUBCONSULTANTS.	27
17.4.1 <u>General.</u>	27
17.4.2 <u>Work Outside Scope and Time of Payment.</u>	27
17.4.3 <u>Subconsultant Contracts.</u>	28
17.5 ASSIGNMENT AND DELEGATION.	28
17.6 AUDITS.	28
17.6.1 <u>Periodic Auditing of Consultant's Books.</u>	28
17.6.2 <u>Overcharge.</u>	28
17.7 TRUTH IN NEGOTIATIONS.	28
17.8 ENTIRE AGREEMENT.	29
17.9 AMENDMENT.	29
17.10 VALIDITY.	29
17.11 HEADINGS.	29
17.12 TIMELINESS.	29
17.13 PUBLIC ENTITY CRIME.	29
17.14 FORCE MAJEURE.	29
17.15 RIGHTS CUMULATIVE; NO WAIVER.	30
17.16 VENUE.	30
17.17 MBE/WBE PARTICIPATION.	30
17.18 PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES.	31
17.19 EMPLOYMENT ELIGIBILITY; E-VERIFY SYSTEM.	32
17.20 LIMITATION OF INDIVIDUAL LIABILITY.	32
17.21 HUMAN TRAFFICKING AFFIDAVIT.	32
17.22 ENTITIES OF FOREIGN COUNTRIES OF CONCERN AFFIDAVIT.	32

CONTINUING PROFESSIONAL CONSULTING AGREEMENT

THIS AGREEMENT ("Contract") is made and entered into this ____ day of _____, 20__, by and between the **City of Orlando, Florida**, a municipal corporation existing under the laws of the State of Florida (CITY), and **Rhodes & Brito Architects, Inc. d/b/a Rhodes+Brito Architects**, a Florida corporation. (CONSULTANT).

WHEREAS, the CITY shall have the option to use the CONSULTANT's professional architectural services (Services), as further described below, for a variety of City projects as may be assigned by the City (Project(s)); and

WHEREAS, the CONSULTANT is willing and able to perform the Services for the CITY on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and mutual covenants given one to the other, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

SECTION 1 - BASIC SERVICES OF CONSULTANT

1.1 General.

1.1.1 The CONSULTANT shall provide SERVICES for the CITY in all phases of a Project to which this Contract applies as hereinafter provided. These Services shall include serving as the CITY's professional architectural representative for Projects, providing professional architectural services consultation and advice, and by itself or with Subconsultants furnishing customary civil, architectural, structural, mechanical, environmental, transportation, stormwater, irrigation, landscaping, and electrical engineering services, and other related services as may be appropriate. The CONSULTANT shall perform any and all Project Services in a timely, efficient and cost-effective manner and in accordance with the generally accepted standards of its profession.

1.1.2 The CITY shall, from time to time at its sole discretion, authorize the CONSULTANT in writing to provide Services by means of a Services Authorization under the terms of this Contract. A Services Authorization shall, by mutual agreement of the parties, set forth, (1) the Scope of Services, (2) the time for performance, (3) method and amount of compensation, (4) the provisions of Sections 1 and 2 of this Contract which are applicable, and (5) the Deliverables, if any (which are the items to be provided to the CITY as a result of the Services).

1.1.3 The CITY does not guarantee, warrant, or represent that any number or any particular type of Project will be assigned to the CONSULTANT under the terms of this Contract. Furthermore, the purpose of this Contract is not to authorize a specific Project, but to set forth certain duties, obligations, rights, and responsibilities that may be incorporated by reference into any Services Authorization that may be mutually agreed to by the parties. The CITY shall have the sole discretion to select the Project(s), if any, that may be given to the CONSULTANT. Assignments will be in accordance with any dollar limitations contained in Section 287.055 of the Florida Statutes, as may be amended from time to time, related to the use of continuing professional services contracts.

1.2 Study and Report Phase.

During the Study and Report Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.2.1 Consult with the CITY to clarify and define the CITY's requirements for the Project, and to review available data.

1.2.2 Advise the CITY as to the necessity of the CITY's providing (or obtaining from others) data or services of the types described in Subsections 3.2 and 3.3, and assist the CITY in obtaining such data and services.

1.2.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project, participate in consultations with such authorities, and, where applicable, prepare grant-funding documents and applications.

1.2.4 Provide analyses of the CITY's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

1.2.5 Provide a general economic analysis of the CITY's requirements applicable to various alternatives.

1.2.6 Prepare a Report or feasibility study containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to the CITY and setting forth the CONSULTANT's findings and recommendations. This Report will be accompanied by the CONSULTANT's cost estimate for the Project, including the following, which shall be separately itemized: construction costs, allowance for consulting costs and contingencies, and (on the basis of information furnished by others) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, legal fees, project management fees, for interest and financing charges and for other Services identified as pertinent to the Project. The total cost of all such costs, expenses, etc. are hereinafter called "Total Project Costs."

1.2.7 Furnish the number of copies as identified in the applicable Services Authorization of the Study and Report documents and review them in person with the CITY.

1.3 Preliminary Design Phase.

During the Preliminary Design Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.3.1 Make a personal examination of the proposed Project site, and, as may reasonably be discoverable, note site conditions and impediments that pertain to or might adversely affect the timely, efficient, and economical completion of any phase of the Project, or the Project as a whole. The CONSULTANT shall promptly report any adverse site conditions to the CITY.

1.3.2 Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project.

1.3.3 Provide Services to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the CITY or others to the CONSULTANT. Such verification Services shall be set forth in the applicable Services Authorization.

1.3.4 Advise the CITY if additional data or Services are necessary for preliminary design, and assist the CITY in obtaining such data and Services.

1.3.5 Based on the information contained in the preliminary design documents, submit a revised Total Project Cost estimate to the CITY.

1.3.6 Furnish the number of copies identified in the Services Authorization of the above Preliminary Design documents, and present and review them in person with the CITY.

1.4 Final Design Phase.

During the Final Design Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.4.1 On the basis of the accepted Preliminary Design documents and the Total Project Cost estimate, prepare for incorporation in the Construction Contract Documents final drawings (Drawings) to show the general scope, extent and character of the work to be furnished and performed by the Project Contractor(s), and specifications (Specifications) (which will be prepared in conformity with the format prescribed by the Construction Specifications Institute).

1.4.2 Prepare and furnish to the CITY such documents and design data as may be required by the CITY, so that the CITY may apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project. The CONSULTANT shall also assist the CITY in obtaining such approvals by submitting, participating and/or leading in negotiations with appropriate authorities, and the Services Authorization shall define the CONSULTANT's role in this regard.

1.4.3 In conjunction with furnishing the related drawings and specifications to the CITY, advise the CITY promptly, in writing, at the thirty percent (30%), sixty percent (60%), and ninety percent (90%) completion stages of any Project, of the estimated Project construction cost.

1.4.4 Advise the CITY of any significant adjustments to the latest Total Project Cost estimate caused by changes in Project extent or design requirements or by variations in construction costs and furnish a revised Total Project Cost estimate based on the latest drawings and specifications.

1.4.5 Prepare for review and approval by the CITY, Invitations For Bid, Bid Forms (where appropriate), Supplementary Conditions and assist in the preparation of other related documents.

1.4.6 Furnish number of copies as identified in the Services Authorization of the drawings and specifications and present and review them in person with the CITY.

1.5 Bidding or Negotiating Phase.

During the Bidding and Negotiation Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.5.1 Assist the CITY in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment, and services; and, when authorized in the applicable Services Authorization, attend pre-bid conferences.

1.5.2 Issue addenda as appropriate to interpret, clarify or expand the bidding documents or in response to written questions received during the Bid Phase.

1.5.3 Consult with and advise the CITY as to the acceptability of the prime Contractor as well as subcontractors, suppliers and other persons and organizations proposed by the prime Contractor(s) for those portions of the work where determination of such acceptability is required by the bidding documents.

1.5.4 Consult with the CITY concerning, and determine the acceptability of, substitute materials and equipment proposed by the Contractor(s) when substitution is allowed by the bidding documents.

1.5.5 Assist the CITY in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

1.6 Construction Phase.

During the Construction Phase, the CONSULTANT shall, if requested by the CITY and accepted by the CONSULTANT as part of a Services Authorization:

1.6.1 General.

Consult with and advise the CITY and act as its representative as provided in the CITY's Standard Construction Contract Documents (Construction Contract Documents). The CITY shall have sole discretion as to the form of these contract documents, or as how they are to be amended pursuant to any Project, or as how they may otherwise be amended from time to time.

1.6.2 Pre-Construction Meeting.

Prepare for and attend a pre-construction meeting conducted by the CITY with representatives of the Contractor(s), subcontractor(s), utility companies, etc., for each Project, as determined necessary by the CITY.

1.6.3 Work in Progress.

In connection with observations of the work of Contractor(s) while it is in progress:

1.6.3.1 The CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as the CONSULTANT deems necessary, and in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. In addition, the CONSULTANT may provide, if requested by the CITY in a Services Authorization, the services of a Construction Manager and/or Field Representative (and assistants as agreed) at the site to assist the CONSULTANT and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, the CONSULTANT shall determine in

general if such work is proceeding in accordance with the Construction Contract Documents, drawings and specifications, and the CONSULTANT shall inform the CITY on the progress of the work.

1.6.3.2 If authorized in the Services Authorization, the Construction Manager and/or Field Representative (and any assistants) will be the CONSULTANT's agent or employee and under the CONSULTANT's supervision. The duties and responsibilities of the Construction Manager and/or Field Representative (and assistants) are set forth in the Construction Contract Documents, or as may otherwise be agreed in a Services Authorization. Daily Reports generated by the Construction Manager and/or Field Representative(s) shall be in a form acceptable to the CITY, and shall be submitted to the CITY on a weekly basis throughout the construction phase of the Project (from Notice to Proceed through Final Acceptance of the work).

1.6.3.3 The purpose of the CONSULTANT's visits to and representation by the Construction Manager and/or Field Representative (and assistants, if any) at the site will be to enable the CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by the CONSULTANT during the Construction Phase, and, in addition, by exercise of the CONSULTANT's efforts as an experienced and qualified design professional, to provide confidence for the CITY that the completed work of the Contractor(s) will conform to the Construction Contract Documents, drawings and specifications and that the integrity of the design concept as reflected in the aforesaid documents has been implemented and preserved by the Contractor(s). The CONSULTANT shall not, however, during such visits or as a result of such observations of the Contractor(s)' work in progress, supervise, direct or have control over the Contractor(s)' work, nor shall the CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Contractor(s), for safety precautions and programs incident to the work of the Contractor(s), or for any failure of the Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor(s)' furnishing and performing their work. Accordingly, the CONSULTANT can neither guarantee the performance of the construction contract by the Contractor(s), nor assume responsibility for the Contractor(s)' failure to furnish and perform their work in accordance with the Construction Contract Documents, drawings and specifications.

1.6.4 Defective Work.

During such visits and on the basis of such observations, the CONSULTANT shall keep the CITY informed of the progress of the work, shall endeavor to guard the CITY against defects and deficiencies in such work, and may disapprove of or reject the Contractor(s)' work while it is in progress if the CONSULTANT believes that such work will not produce a completed Project that conforms generally to the Construction Contract Documents, drawings and specifications or that it will prejudice the integrity of the design concept of the Project as reflected in the Construction Contract Documents, drawings and specifications. The CONSULTANT shall advise the CITY in a timely manner of defect(s) in the Contractor's or Subcontractor's work, and of the action taken to have the defect(s) corrected.

1.6.5 Shop Drawings.

The CONSULTANT agrees that all Shop Drawings shall be stamped (or otherwise labeled) with one of the following notations and language:

APPROVED	<input type="checkbox"/>
APPROVED AS CORRECTED	<input type="checkbox"/>
REVISE AND RESUBMIT	<input type="checkbox"/>
NOT APPROVED	<input type="checkbox"/>

Approval is only for general conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other actions shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. The Contractor is responsible for dimensions to be confirmed and correlated at the job site; for information that pertains solely to the fabrication processes or to techniques of construction; and for coordination of the work of all trades."

Furthermore, the CONSULTANT agrees that it shall devise a separate tracking system for Shop drawings previously disapproved, or for which corrections, modifications, or changes are necessary. The tracking system shall be both timely and efficient, and shall account for the status and party responsible to correct all previously submitted Shop Drawings until their complete approval and acceptance. The tracking system shall include, but not be limited to, the following CONSULTANT activities: subsequent to any Contractor's being ordered to start construction work, the CONSULTANT shall transmit to the CITY, if required by Services Authorization and at such frequency as defined therein, a list of Shop Drawings anticipated for such construction contract, the names of Shop Drawings, their due dates (in accordance with Shop Drawing schedules submitted by the Contractor(s)) required from the Contractor(s); their dates of issue, receipt, checking, return for correction, resubmission, and approval; and any information that will clearly provide the CITY with the progress of Project Shop Drawings; provided, however, that in any event all Shop Drawings that have been submitted to the CONSULTANT (whether for approval or reapproval) shall be reviewed and returned by the CONSULTANT within twenty (20) days of submission.

1.6.6 Interpretations and Clarifications.

The CONSULTANT shall issue necessary interpretations and clarifications of the drawings and specifications and in connection therewith prepare work directive changes and change orders as required. In addition, the CONSULTANT shall respond, in writing, to all "Requests for Information" (RFI). All RFIs and responses thereto shall be submitted to the CITY.

1.6.7 Substitutes.

The CONSULTANT shall evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor(s).

1.6.8 Inspections and Tests.

The CONSULTANT shall have authority, as the CITY's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing and approvals required by laws, rules, regulations, ordinances, codes, orders and terms of the drawings and specifications (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the drawings and specifications) and, in addition, the CONSULTANT shall have authority, as the CITY's representative, to act as initial interpreter of the requirements of the drawings and specifications.

1.6.9 Applications for Payment.

Based on the CONSULTANT's on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, the CONSULTANT

shall determine the amounts owing to the Contractor(s) and recommend in writing payments to the Contractor(s) in such amounts: such recommendations of payment will constitute a representation to the CITY, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of the CONSULTANT's knowledge, information and belief, the quality of such work is generally in accordance with the Construction Contract Documents, drawings and specifications (subject to an evaluation of such work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due to the Contractor(s); but by recommending any payment, the CONSULTANT will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by the CONSULTANT to check the quality or quantity of the work or impose on the CONSULTANT responsibility to supervise, direct, or control such work, or for the means, methods, sequences, techniques or procedures of construction or safety precautions or program incident thereto, or that the CONSULTANT has made an examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or that title to any of the work, materials or equipment has passed to the CITY free and clear of any lien, claims, security interests or encumbrances, or that the Contractor(s) have completed their work exactly in accordance with the Contract Documents, drawings and specifications.

1.6.10 Review Record Drawings.

If providing Construction Manager and/or Field Representative Services, the CONSULTANT shall periodically review the Record Drawings as prepared by the Contractor(s) and verify the accuracy and completeness thereof prior to recommendation to the CITY of the release of progress payments for the work in question.

1.6.11 Track Progress of Contractor.

If providing Construction Manager and/or Field Representative Services, the CONSULTANT shall track the progress of the Contractor(s) and submit a written report to the CITY, at the 30%, 60% and 90% stages of the construction (as identified by the Contractor(s) original approved schedule) or as defined in the Services Authorization, documenting the progress of the Contractor relative to the original approved Schedule.

1.6.12 Minimize Claims.

The CONSULTANT shall endeavor to minimize the potential areas for Contractor claims by initiating timely, thorough, and complete communication among the CITY and the design and construction contract principals; other local, state, or federal parties (when directed by the CITY); or private entities that may also be involved. Upon identification of a potential Contractor claim, the CONSULTANT shall immediately notify the CITY of all data relevant to the potential Contractor claims, and of which the CONSULTANT is aware.

1.6.13 Resolve Construction-Related Operational Difficulties.

The CONSULTANT shall report to the CITY the status of all significant construction-related system operational and system quality concerns, as well as the actions taken by the CONSULTANT to encourage effective communication and timely resolution thereof. Once a problem area is identified, the CONSULTANT shall keep a detailed log on the item in question, and pursue the timely resolution of that item.

1.6.14 Contractor(s) Completion Documents.

The CONSULTANT shall receive and review maintenance operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by the Contractor(s)

in accordance with the Construction Contract Documents (but such review will only be to determine that their content complies with the requirements of, and, in the case of certificates of inspection, tests, and approvals, the results certified will indicate compliance with the Construction Contract Documents, drawings and specifications); and shall transmit them to the CITY with written comments.

1.6.15 Inspections.

The CONSULTANT shall conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in general accordance with the Construction Contract Documents, drawings and specifications, so that the CONSULTANT may recommend, in writing, final payment to each Contractor, and may give written notice to the CITY and the Contractor(s), that the work is acceptable (subject to any conditions, therein expressed). In addition, the CONSULTANT shall conduct a warranty inspection and report to the CITY, in writing, the results of the inspection, including any warranty related defects identified.

1.6.16 Limitation of Responsibilities.

The CONSULTANT shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except the CONSULTANT's own Subconsultants, employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; provided, however, that nothing contained in Subsections 1.6.1 through 1.6.15, inclusive, shall be construed to release the CONSULTANT from liability for failure to properly perform duties and responsibilities assumed by the CONSULTANT.

1.6.17 Subcontractors and Subconsultants.

In performing the Services and to see them to a timely, efficient, and cost-effective completion, the CONSULTANT shall have the right to employ other firms, consultants, contractors, subcontractors, and so forth (Subconsultants). While the CITY shall make no demand that the CONSULTANT hire any particular Subconsultant for any specific Project, by acquiescing to or accepting a Subconsultant hired by the CONSULTANT, the CITY does not guarantee or warrant the reliability or effectiveness of that entity's services.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 General.

The CITY may, at its sole discretion, provide the CONSULTANT with a Services Authorization to furnish or obtain (from others) Additional Services of the following types which are not considered normal or customary Basic Services, as described above. These additional services may include, but are not limited to, the following:

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services resulting from significant changes in the previously approved extent of the Project or its design including, but not limited to, changes in size, complexity, the CITY's schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design documents

or Construction Contract Documents when such revisions are due to causes beyond the CONSULTANT's control.

2.1.3 Providing measured drawings, renderings or models for the CITY's or the CONSULTANT's use.

2.1.4 Preparing documents for alternate bids requested by the CITY for the Contractor(s)' work, or documents for out-of-sequence work.

2.1.5 Investigations involving detailed consideration of operations, maintenance and overhead expenses; value engineering during the course of design; cash flow and economic evaluations not envisioned in a preliminary consulting report; rate schedules and appraisals; assistance in obtaining financing for the Project; processes available for licensing and assisting the CITY in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by the CITY.

2.1.6 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical, environmental, architectural, transportation, stormwater, irrigation, landscaping, and electrical engineering); and for providing data or services beyond those described as Basic Services, herein.

2.1.7 Services resulting from the award of more than a separate prime contract for construction, materials, equipment or services for the Project, and services resulting from the arranging for performance by persons (other than the prime Contractors) of services for the CITY and administering the CITY's contracts for such services.

2.1.8 Services during out-of-town travel required of the CONSULTANT, other than visits to the site or the CITY's office which are necessary for the performance of Basic Services.

2.1.9 Providing any type of field surveys for design purposes and engineering surveys and staking to enable the Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.10 Where applicable, and with approval of the CITY, preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial start up, testing, adjusting and balancing); and training personnel for operation and maintenance.

2.1.11 Preparing to serve (or serving) as a consultant or witness for the CITY in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for assistance in consultations included as part of Basic Services).

2.1.12 Services in connection with change orders to reflect changes requested by the CITY, and making revisions to drawings and specifications occasioned thereby.

2.1.13 Preparing for the CITY, on request, a set of reproducible record prints of signed and sealed drawings showing those changes made during the construction process. Such prints shall be based on the marked-up prints, drawings and other data furnished by the Contractor(s) to the CONSULTANT and which the CONSULTANT considered significant (Record Drawings). The CITY may, at its reasonable discretion, request copies of the Record Drawings in either electronic or physical format. If requested in electronic format, CONSULTANT shall deliver, either electronically or via physical digital storage media, a copy of the Record Drawings, in an electronic file format ordinarily and customarily in general use in

the industry for such drawings, that has been digitally signed and sealed by CONSULTANT. If requested in physical format, the CONSULTANT shall deliver physical copies of the Record Drawings with a physical ink or impression of the engineer's seal at no additional cost to the CITY. CITY's acceptance of the signed and sealed originals shall not be construed as the CITY's acceptance or waiver of any errors or omissions, or both of these things, that may be contained in the signed and sealed Record Drawings themselves.

2.1.14 Additional or extended service during construction made necessary by, (1) work damaged through means beyond control of the CONSULTANT, (2) a significant amount of defective or neglected work of the Contractor(s) not resulting from the inadequate performance of the CONSULTANT under the terms of the Contract, (3) prolongation of contract time of any prime Contractor by more than thirty (30) days, (4) acceleration of the progress schedule involving Services beyond normal working hours, and (5) default by the prime Contractor(s).

2.1.15 Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any construction contract for the Project.

2.1.16 Assistance in the preparation of ordinances.

2.1.17 Assistance in the preparation of agreements between the CITY and others (including, but not limited to, other units of government, developers, districts, and authorities).

2.1.18 Special studies, reports, investigations or analyses.

2.1.19 Services in connection with any partial utilization of any part of the Project by the CITY prior to Substantial Completion.

2.1.20 Evaluating an unreasonable or extensive number of claims submitted by the Contractor(s) or others in connection with the work, such unreasonableness and extensiveness to be at the CITY's request and determination.

2.1.21 The filing of a written Status Report with the CITY concerning, 1) a description of the Services performed and completed to a date certain, 2) the results of such Services and work (i.e., their relation to the total Project Work, the percentage of Project Services then completed), and 3) any other observations or comments that the CONSULTANT believes or should reasonably believe will affect the successful completion of the Project, or that should otherwise be brought to the CITY's attention. The frequency of such reports shall be set forth in each Services Authorization.

2.1.22 Preparing design criteria packages for design build and other solicitations.

2.1.23 Providing design criteria packages, independent professional reviews, and consultation regarding solicited and unsolicited private public partnership proposals and solicitations.

2.1.24 Evaluation of permits and permit applications as requested by the City and providing City staff consultation and advice regarding such matters.

2.1.25 Additional services in connection with the Project not otherwise defined in the Basic Services, or as described elsewhere herein, and including but not limited to start-up services that shall be defined in the appropriate Services Authorization.

SECTION 3 - CITY'S RESPONSIBILITIES

3.1 Requirements for the Project.

The CITY shall provide all criteria and full information as to the CITY's requirements for the Project in a timely manner, including design objectives and constraints; space, capacity and performance requirements; flexibility and expandability matters; and any budgetary limitations; and furnish copies of all design and construction standards which the CITY will require to be included in the drawings and specifications.

3.2 Information Pertinent to the Project.

The CITY shall assist the CONSULTANT by placing at the CONSULTANT's disposal available information pertinent to the Project (including previous reports and any other data relative to design or construction of the Project), and the CITY shall advise the CONSULTANT as to what information, if any, the CITY believes to be accurate. The CONSULTANT is ultimately responsible for satisfying itself as to accuracy of any data provided, and, furthermore, the CONSULTANT is responsible for bringing to the CITY's attention, for the CITY's resolution, any material inconsistencies or errors in such data which come to the CONSULTANT's attention. If the CITY requires the CONSULTANT's assistance in resolving any error or inconsistency, such Services may be provided by mutual agreement of the parties, and shall be reimbursed by the CITY pursuant to Subsection 2.1.22, above.

3.3 Access to Property.

The CITY shall arrange for access to and make provisions for the CONSULTANT to enter upon public and private property as required for the CONSULTANT to perform its Services.

3.4 Examination.

The CITY shall examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the CONSULTANT, and render, in writing, decisions pertaining thereto within a reasonable time.

3.5 Approvals and Permits.

The CITY shall obtain approvals and permits, with the active assistance of the CONSULTANT (and as budgeted in the applicable Services Authorization), from all governmental authorities having jurisdiction over the Project, and such approvals and consents from others as may be necessary for successful completion of the Project.

3.6 Other Professional Services.

The CITY shall provide such (accounting, independent cost estimating, and insurance counseling) services as may be required for the Project, to ascertain that the construction Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the Project work.

3.7 City Project Manager.

The CITY shall appoint a City Project Manager for any Services Authorization. The City Project Manager shall be the Director of Public Works (Director) or the Director's designee, and, except as otherwise expressly provided in this Contract, shall issue any and all written authorizations to the CONSULTANT that the Project may require, or that may otherwise be defined or referred to in this Contract. The City Project Manager shall also, 1) act as the CITY's agent with respect to the Services rendered hereunder; 2) transmit instructions to and receive information from the CONSULTANT; 3) communicate the CITY's policies and decisions to the CONSULTANT regarding the Services; 4) determine, initially, whether the CONSULTANT is fulfilling its duties, responsibilities, and obligations hereunder; and 5) determine, initially, the merits of any allegation by the CONSULTANT respecting the CITY's non-performance of any Project obligation. All determinations made by the City Project Manager, as outlined above, shall be final and binding upon the CONSULTANT in regard to further administrative review, but shall not be binding upon the CONSULTANT in regard to general appearances before or appeals to the Orlando City Council, or appearances before or appeals to a court of competent jurisdiction.

3.8 Notice and Extension of Term.

The CITY shall give prompt written notice to the CONSULTANT whenever the CITY observes or otherwise becomes aware of any development that affects the scope or timing of the CONSULTANT's Services, or any defect in the work of the Contractor(s). If the CONSULTANT has been delayed in completing its Services through no fault or negligence of its own, and, as a result, will be unable to complete performance fully and satisfactorily under the provisions of any Services Authorization, then, in the Director's sole discretion, and upon the submission to the Director of evidence of the causes of the delay, the CONSULTANT shall be granted an extension of its Project schedule equal to the period the CONSULTANT was actually and necessarily delayed.

3.9 CITY's Construction Management.

The CITY may provide Construction Manager(s) and Field Representative(s) to monitor construction activities. When the CITY provides Construction Manager(s) and Field Representative(s), his duties, responsibilities and limitations of authority shall be as set forth in the Construction Contract Documents and the following will apply:

3.9.1 The Construction Manager will provide instructions to the Field Representative(s) on procedures to be followed, and will schedule inspections of construction. The Field Representative(s) shall be responsible for proper execution of the Construction Manager's instructions.

3.9.2 The CITY's Construction Manager(s) and Field Representative(s) shall have prior construction experience, or shall be trained by the CITY to assure that the foregoing have sufficient understanding of their duties and personal job safety precautions on the subject Project. The CONSULTANT, has no responsibility for training of the CITY's representative(s), or for general duties of a representative on the subject Project, or for general job safety precautions on the subject Project.

3.10 Additional Services.

The CITY shall furnish, or direct the CONSULTANT to provide, necessary Additional Services as stipulated in Section 2 of this Contract, or other Services as required, or as mutually agreed pursuant to a Services Authorization.

3.11 Incidental Costs.

The CITY shall bear all costs incident to compliance with the requirements of this Section.

SECTION 4 - PERIOD OF SERVICE

4.1 Continuing Contract.

This term of this Contract shall commence on March 15, 2025 and end on March 14, 2027 or until terminated in accordance with SECTION 8. The parties shall have the option of extending the term one (1) year upon mutual agreement. The above time periods may be exceeded to complete a Project already in progress at the end of the term, including any extensions thereof.

4.2 Services Authorization.

Each Services Authorization shall specify the Period of Service agreed to by the CITY and the CONSULTANT for Services to be rendered under that Services Authorization.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 General.

5.1.1 The CITY will pay the CONSULTANT for the Services as detailed in each of the CONSULTANT's narrative monthly invoices (Invoices), and in accordance with the schedule of Fees and reimbursable expenses as provided in each Services Authorization. The invoices shall be in a format approved by the Project Manager.

5.1.2 The CONSULTANT fully acknowledges and agrees that if at any time it performs Services on a Project contemplated by the parties, such Services which have not been, a) fully negotiated, reduced to writing, and formally executed by both the CITY and CONSULTANT; b) or reduced to writing by the CITY and signed by the CITY's Chief Procurement Officer or other authorized person; then the CONSULTANT shall perform such Services without liability to the CITY, and at the CONSULTANT's own risk.

5.1.3 For other than lump-sum contracts, the CITY shall only be obligated to pay for those Services that the CONSULTANT can demonstrate are reasonable, provable, and within the Scope of Services of any Services Authorization.

5.1.4 The CITY has established a maximum multiplier of 3.0 to be applicable to the Wage Cost Multiplier method of compensation, as set forth below.

5.2 Methods of Compensation.

Within the Services Authorization associated with each Project, the CITY and the CONSULTANT may agree on, but not be limited to, one of the methods of compensation outlined in Subsections 5.2.1, et seq. If a different method of compensation is to be used, the Services Authorization will set forth the basis for such compensation.

5.2.1 Wage Cost Multiplier.

5.2.1.1 General. One method of compensation shall be calculated by a wage or salary cost times (multiplied by) an actual audited overhead factor (Wage Cost Multiplier); provided, however, that in no instance shall the factor exceed 3.0 (Multiplier). Reimbursable expenses shall be compensation times a factor of 1.0, and Subconsultants times a factor of up to 1.1 (applicable to the fee but not to reimbursable expenses). Reimbursable expenses include the pass-through costs incurred by the CONSULTANT. After application of the Multiplier, the personnel costs shall include:

- a) Salary
- b) Social Security
- c) Federal and State Unemployment Taxes
- d) Worker's Compensation Insurance
- e) Sick Leave
- f) Vacation and Holiday Pay
- g) Retirement and Medical Insurance Benefits
- h) General and Administrative Overhead Costs
- i) Quality Control (to ensure normal standard of care)
- j) Profit (not to exceed 10%)
- k) Incidental Reproduction and Secretarial (not attributable to a specific Project)
- l) Office Support Costs (including accounting work necessary for the maintenance of Project billings)

5.2.1.2 Wage Cost Multiplier for Construction Phase Services on Major Projects. (This Subsection shall apply to assignments which require one or more full-time field personnel assigned to a Project.) The CITY shall pay the CONSULTANT an amount based on the direct salaries and wages of office and field personnel times (multiplied by) the applicable factor as set forth below, for Services rendered by officers, principals, and employees assigned to the Project; plus reimbursable expenses times a factor 1.0; plus the cost of Subconsultants times a factor of up to 1.1 (applicable to the fee but not to reimbursable expenses). The factors to be applied to direct salaries and wages are as follows, unless the prior written approval of the City's Chief Financial Officer is obtained:

Factor

Office Services, defined as personnel assigned to and based in the CONSULTANT's regular places of business

Max 3.0

Field Services, defined as personnel assigned to and based in a furnished field office which is provided by, 1) the construction Contractor, 2) the CITY, or 3) by the CONSULTANT as a reimbursable expense.

Max 2.55

5.2.2 Lump Sum.

For Services rendered, the CITY shall pay the CONSULTANT a lump-sum fee, including or excluding reimbursable expenses as mutually agreed upon and set forth in the Services Authorization. Unless otherwise agreed in a Services Authorization, the CONSULTANT will invoice the CITY monthly, based upon the CONSULTANT's estimate of the portion of the total Services actually completed at the time of billing.

5.3 Reimbursable Expenses.

"Reimbursable Expenses" means the actual, necessary and reasonable expenses incurred directly or indirectly in connection with the Project for: transportation and subsistence incidental thereto for travel outside Orange and Seminole Counties; obtaining bids or proposals from Contractor(s); furnishing and maintaining field office facilities; toll telephone calls; reproduction of reports, drawings and specifications, and similar Project-related items; as provided in the CITY's written procurement policies and directives.

5.4 Payments by Owner.

5.4.1 All Services' payment (Payment) shall be made by the City to the CONSULTANT within thirty (30) calendar days of the City's invoice receipt thereof (Payment Period), unless, within the Payment Period, the CITY, 1) notifies the CONSULTANT of an objection to the Payment amount, and 2) either provides the CONSULTANT with a determination of the proper Payment, or 3) requests further information from the CONSULTANT so that a proper Payment can be derived and agreed upon by the parties.

5.4.2 The CITY's objection to the Payment amount shall be accompanied by the CITY's remittance of any undisputed portion of the Payment. If the objection is resolved in favor of the CONSULTANT, then the CITY shall pay the CONSULTANT the amount so determined, minus any Payment amount previously paid to the CONSULTANT with respect to the objection, plus interest at one percent (1%) simple interest, per month, on the unpaid amount. If it is determined that the CITY has overpaid the CONSULTANT, then the CONSULTANT shall, within thirty (30) calendar days, refund to the CITY the overpayment amount, and interest, at one percent (1%) simple interest, per month.

5.5 Records.

The CONSULTANT also agrees to maintain, and to cause each Subconsultant to maintain, complete and accurate books and records (Books) in accordance with sound accounting principles and standards, and relating to all Services and the Project, and the related costs and expenditures to the CITY that have been contracted for and paid for over the duration of any Service Authorization. The Books shall identify the Services rendered during each month of the Services Authorization, the date that each Project expense was incurred, and whether the expense was Service or reimbursable-related. These Books shall be maintained for the longer of (i) five (5) years following Final Payment; (ii) five (5) years following termination of any Service Authorization; or (iii) the conclusion of all audits and litigation (including all appeals) related to this Contract (including any Service Authorizations) or any Project which was the subject of a Service Authorization pursuant to this Contract. To the extent applicable, CONSULTANT shall comply with Florida public records laws, including Sections 119.0701(2) (b) 1 through 4 of the Florida Statutes. **IF THE CONSULTANT HAS QUESTIONS REGARDING THE**

APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK OR THE CITY'S RECORDS AND ARCHIVES MANAGER, AT RECORDS@ORLANDO.GOV, TELEPHONE NUMBER (407) 246-2148, 400 S. ORANGE AVE., 2ND FLOOR ORLANDO, FL 32801.

5.6 Late Payment.

If the CITY fails to make any payment due the CONSULTANT for Services and expenses within forty-five (45) days after receipt of the CONSULTANT's invoice therefor, the amounts due the CONSULTANT shall include a charge at the rate of one percent (1%) per month simple interest from the thirtieth (30th) day, and, in addition the CONSULTANT may, after giving seven (7) calendar days' prior written notice to the CITY, suspend Services under this Contract until the CONSULTANT has been paid, in full, amounts due it for Services and expenses. Any portion of an invoice that is objected to or questioned by the CITY in accordance with Subsection 5.4 shall not be considered due for the purposes of this Subsection.

5.7 Overtime.

Overtime will be paid by the CITY only if authorized in advance by the Director for work to be performed to meet a particular deadline for which there is insufficient time to accomplish the task during normal hours, through no fault of the CONSULTANT.

5.8 Scope, Cost and Fee Adjustment.

5.8.1 General.

The CONSULTANT or the CITY may at any time notify the other of requested changes to the Scope of Services as set forth in a Services Authorization. The notification shall state the Scope modification and an adjustment of the cost estimate and fee specified in the subject Services Authorization to reflect such modification. The cost and fee adjustment due to modification in the Scope of Services may be calculated utilizing the same method of compensation applicable to the Services Authorization prior to the Scope modification. The CONSULTANT and the CITY understand that, unless the cost and fee adjustment is within a previously approved budget, any change to the Scope of Services must be approved or authorized by the Orlando City Council. If the cost and fee adjustment is within a previously approved budget to the Scope of Services for the overall Project, the change may be approved by the Director.

5.8.2 Scope Reduction.

The Director shall have the sole right to reduce (or eliminate, in whole or in part) the Scope of any Project at any time and for any reason, upon written notice to the CONSULTANT specifying the nature and extent of the reduction. In such event the CONSULTANT shall be fully compensated for the Services already performed, including payment as defined in Section 5 of all Project-specific fee amounts due and payable prior to the effective date stated in the Director's notification of the reduction and for a maximum of five (5) days' demobilization costs. The CONSULTANT shall also be compensated for the Services remaining to be done and not reduced or eliminated on the Project.

5.8.3 Scope Suspension.

The Director may, at any time and for any reason, direct the CONSULTANT to suspend work (in whole or in part) under this Contract. Such direction shall be in writing, and shall specify the period during which Services shall be stopped. The CONSULTANT shall resume its Services upon the date specified, or upon such other date as the Director may thereafter specify in writing. The period during which the Services are stopped by the CITY shall be added to the applicable Services Authorization term; provided, however, that any work stoppage not approved or caused by the actions or inactions of the CITY shall not give rise to any claim against the CITY by the CONSULTANT. The CITY agrees to compensate the CONSULTANT for its reasonable and provable costs, profits, and losses (including overhead costs, reimbursable, demobilization, remobilization, and Subconsultant expenses incurred) attributable to any delay caused by the actions or inactions of the CITY.

5.9 Sales Tax.

Under present Florida law, Chap. 212, *Fla. Stat.* (2005), the CITY is exempt from sales taxes imposed upon professional services when the CITY purchases such services directly. The CITY agrees to pay actual taxes (exclusive of any multiplier) imposed upon the CONSULTANT, for CITY Projects, for the CONSULTANT's purchase of Subconsultant services, or materials, except for qualified sales for resales. The CITY and the CONSULTANT agree that this Subsection may be modified by Services Authorization, in the event of future changes to Chap. 212, that affect the parties, terms, or conditions of this Contract.

5.10 Payment Withheld.

When the Director has reasonable ground for belief, or information to believe that, 1) the CONSULTANT will be unable to perform the Services under any Services Authorization within the related Project Term; or 2) a meritorious claim exists against the CONSULTANT or the CITY arising out of the CONSULTANT's negligence or the CONSULTANT's breach of any provision of this Contract or any Services Authorization; then the Director may withhold a Payment otherwise due and payable to the CONSULTANT; provided, however, that the Director shall not unreasonably withhold other Services Authorization payments that may not otherwise be in dispute. Any Payment so withheld may be retained by the CITY for such period as it deems advisable to protect the CITY against any loss or deprivation that the CITY may incur pursuant to this Subsection, or as may be determined by a court of competent jurisdiction. This provision is intended solely for the benefit of the CITY, and no person shall have any right against the Director or claim against the CITY by reason of the Director's failure or refusal to withhold a Payment. Interest [one percent (1%) simple interest, per month] shall only be payable by the CITY, on any amounts withheld under this provision if the Director has acted unreasonably. This provision is not intended to limit or in any way prejudice any other right the CITY may have in this regard, or any right or defense that the CONSULTANT might choose to exercise against the CITY.

5.11 Termination.

Upon the termination of this Contract, the CONSULTANT shall prepare a final and complete Payment Statement for all Services and reimbursable expenses incurred since the posting of the last Payment Statement, and through the date of termination. The final Payment Statement shall be subject to all of the provisions described in Section 5.

5.12 Final Payment.

The acceptance by the CONSULTANT, its successors, or assigns, of any final Payment due upon the termination of this Contract or any Services Authorization, shall constitute a full and complete release of

the CITY from any and all claims or demands regarding further compensation for authorized Services rendered prior to such Final Payment that the CONSULTANT, its successors, or assigns have or may have against the CITY under the provisions of this Contract, unless otherwise previously and properly filed pursuant to the provisions of this Contract, or in a court of competent jurisdiction. This Subsection does not affect any other portion of this Contract that extends obligations of the parties beyond Final Payment.

5.13 Living Wage.

The CONSULTANT, as well as its subcontractors (first tier only), shall pay to all of their employees providing services pursuant to a contract with the City, a living wage for the time spent providing services to the City. (This provision does not include general administrative personnel unless they are assigned to a City project.) "Living wage" means compensation for employment of not less than \$15.00 per hour for straight time, exclusive of FICA, unemployment taxes, and workers compensation insurance and employee benefits. Necessary payroll documentation shall be provided to confirm compliance with this provision or the Respondent shall allow the City to audit (at Respondent's place of business) its payroll records to determine if compliance has been achieved. Failure to comply with the provision may result in termination of the contract and/or preclusion from future City contracts at the sole option of the City. This provision shall apply to all contracts which involve City expenditures that exceed \$100,000.00 per year. The Living Wage policy does not apply to part time employees, or the part time employees of all subcontractors. Furthermore, the workers of temporary employment agencies are not covered by the City's Living Wage Policy.

SECTION 6 - CONSTRUCTION COST AND OPINIONS OF COST

6.1 Consultant's Construction Cost, General.

If the CITY requests in a Services Authorization that a Project construction cost estimate be given by the CONSULTANT as part of Preliminary and Final Design Services, then the CONSULTANT shall develop a CONSULTANT's estimate of probable construction cost at such points in the design phase as defined herein or otherwise agreed to in the Services Authorization. The construction cost of the entire Project (Construction Cost Estimate) means the total cost to the CITY of those portions of the entire Project designed and specified by the CONSULTANT, but will not include the CONSULTANT's compensation and expenses, the cost of land rights-of-way, or compensation for or damages to properties, unless the applicable Services Authorization so specifies; nor will it include the CITY's legal, accounting, insurance-counseling, or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to the CITY.

6.2 Consultant's Estimate of Probable Construction Cost.

6.2.1 General.

Since the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the CONSULTANT's opinions of Total Project Cost and Construction Cost Estimate provided for hereinabove are to be made on the basis of the CONSULTANT's experience and qualifications, and represent the CONSULTANT's best judgment as an experienced and qualified professional which is familiar with the construction industry; but the CONSULTANT cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by the CONSULTANT.

6.2.2 Construction Cost.

If a Construction Cost Estimate is required to be provided by the CONSULTANT pursuant to a Services Authorization, then the following will apply:

6.2.2.1 The acceptance by the CITY at any time during the Basic Services of a revised opinion of Total Project Cost or Construction Cost Estimate in excess of the then established cost limit will constitute a corresponding revision in the Construction Cost Estimate limit to the extent indicated in such revised opinion.

6.2.2.2 If a Construction Cost Estimate is established, the CONSULTANT will be permitted, with review and approval by the CITY, to determine what types of materials, equipment and component systems are to be included in the drawings and specifications and to make reasonable adjustments in the general scope, extent and character of the Project to bring it within the cost estimate.

6.2.2.3 If the Bidding or negotiating Phase of a Project has not commenced within six (6) months after completion of the Final Design Phase, the established Construction Cost Estimate will not be binding on the CONSULTANT, and the CITY shall consent to any reasonable adjustment in the Construction Cost Estimate commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or bids are sought.

6.2.2.4 If the lowest bona fide proposal or bid exceeds the established Construction Cost Estimate by 15% or more, the CITY may, (1) give written approval to increase such Construction Cost Estimate, (2) authorize negotiating or rebidding of the Project within a reasonable time, or (3) cooperate in revising the Project's general scope, extent or character to the extent consistent with the Project's requirements and with sound professional practices. In the case of (3), the CONSULTANT shall modify the drawings and specifications as necessary to bring the construction cost within the Construction Cost Estimate. In lieu of other compensation for Services in making such modifications, the CITY shall pay the CONSULTANT's cost of such Services, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to the CONSULTANT on account of such Services; and the CONSULTANT's providing these modification Services shall be the extent of the CONSULTANT's cost-estimating liability as memorialized in this Subsection.

SECTION 7 - SETTLEMENT OF CLAIMS

The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Contract, or any breach hereof, shall be Orange County, Florida.

SECTION 8 - TERMINATION

8.1 General.

This Contract may be terminated, 1) by the CITY, following fifteen (15) days prior written notice to the CONSULTANT, as stated below, 2) by the CONSULTANT, following fifteen (15) days prior written notice to the CITY, as stated below, and 3) by the mutual agreement of the parties. Any termination by the CITY under this Section 8 shall be subject to the requirements of Section 14 below. In the event of the

termination of this Contract, any liability of one party to the other arising out of any Services rendered, or any act or event occurring prior to the termination, shall not be terminated or released.

8.2 Failure to Perform.

In addition to any other termination provisions that may be provided in this Contract, the CITY may terminate this Contract in whole or in part if the CONSULTANT makes a willfully false Payment Statement or substantially fails to perform any obligation under this Contract and does not remedy the failure within fifteen (15) calendar days after receipt by the CONSULTANT of written demand from the CITY to do so, unless, however, the nature of the failure is such that it cannot, in the exercise of reasonable diligence, be remedied within fifteen (15) calendar days, in which case the CONSULTANT shall have such time as is reasonably necessary to remedy the failure, provided the CONSULTANT promptly takes and diligently pursues such actions as are necessary therefor. The CONSULTANT may terminate this Contract if the CITY substantially fails to perform any obligation under this Contract, and does not remedy the failure within fifteen (15) calendar days after receipt by the CITY of written demand from the CONSULTANT to do so, unless, however, the nature of the failure is such that it cannot, in the exercise of reasonable diligence, be remedied within fifteen (15) calendar days, in which case the CITY shall have such time as is reasonably necessary to remedy the failure, provided it promptly takes and diligently pursues such actions as are necessary therefor.

8.3 Termination for Convenience.

The CITY may, without prejudice to any other rights or remedies, terminate this Contract in whole or in part at any time for its convenience by giving the CONSULTANT fifteen (15) days written notice. The CONSULTANT shall be paid for Services completed, or partially completed, up to the termination effective date and for reasonable termination settlement costs relating to commitments which had become firm prior to the termination; however, payment to the CONSULTANT will exclude any and all anticipated supplemental costs, administrative expenses, overhead and profit on uncompleted Services.

8.4 Payment Upon Termination.

Upon termination of this Contract, the CITY shall pay the CONSULTANT for those Services actually rendered and contracted for under a Services Authorization, and those reasonable and provable expenses required by any Services Authorization and actually incurred by the CONSULTANT for Services prior to the effective date of termination. Such payments, however, shall be, 1) reduced by an amount equal to any additional costs incurred by the CITY as a result of the termination (if the Contract is terminated for cause by the CITY), or 2) increased by an amount equal to the reasonable and provable expenses incurred by the CONSULTANT (to close out its Services) that are directly attributable to the termination, and for which the CONSULTANT is not otherwise compensated (if the Contract is terminated for the convenience of the CITY).

8.5 Delivery of Materials Upon Termination.

In the event of termination of this Contract (or any Services Authorization) by the CITY, prior to the CONSULTANT's satisfactory completion of all the Services described or alluded to herein, the CONSULTANT shall promptly furnish the CITY, at no additional cost or expense, with one (1) copy of the following items (Documents), any or all of which may have been produced prior to and including the date of termination: data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, digital files, memoranda; and any and all other documents, instruments,

information, portable physical electronic storage media, and materials (whether or not completed) generated or prepared by the CONSULTANT, or by any Subconsultant, in rendering the Services described herein, and not previously furnished to the CITY by the CONSULTANT pursuant to this Contract, or any Services Authorization. The Documents shall be the sole property of the CITY, and the CITY shall be vested with all rights provided therein of whatever kind and however created. The CONSULTANT shall also require that all such Subconsultants agree in writing to be bound by the provisions of this Subsection.

SECTION 9 – [RESERVED]

SECTION 10 - MATERIALS, REUSE OF DOCUMENTS, AND CONFIDENTIALITY

10.1 General.

One reproducible copy of all data, inspector's reports, job files, test reports, copies of Shop Drawings, construction photographs, cost control and scheduling data, computer printouts, Contractor's submittals, summaries, digital files, memoranda; and other written work, documents, instruments, information, portable physical electronic storage media, and materials (whether or not completed) generated or prepared by the CONSULTANT especially for the Services rendered hereunder; shall be supplied to the CITY at the CITY's request by the CONSULTANT, and at the CITY's cost. The final work product of all such materials (e.g., signed and sealed drawings and specifications, and portable physical electronic storage media used to record design and as-built conditions; studies; analyses; and so forth), along with all formal CONSULTANT-CITY correspondence concerning any Project (e.g. letters, tapes, memoranda, etc.) shall be the sole property of the CITY. All materials described above shall be retained by the CONSULTANT for the longer of the period set forth in Section 5.5 above or the statutory period for claims (§95.11, Fla. Stat., as it may be from time-to-time amended), or as may otherwise be agreed by the parties in a Services Authorization. Furthermore, the CITY may reuse them at no additional cost. All materials described above shall be a “work made for hire” and the CITY shall be vested with all rights of whatever kind and however created that may be in existence thereto.

10.2 Reuse of Documents.

The CITY acknowledges that the materials described immediately above are not intended for use in connection with any Project or purpose other than the Project and purpose for which the materials are prepared. Any use by the CITY of such materials in connection with a Project or purpose other than that for which such materials were prepared, without the prior written consent of the CONSULTANT, shall be at the CITY's sole risk, and the CONSULTANT shall have no responsibility or liability related thereto.

SECTION 11 - NOTICES

All notices denominated as such by this Contract, or the City Code, or Florida law, required to be given to the CONSULTANT hereunder shall be in writing, and shall be given by hand-delivery or United States mail, postage prepaid, addressed to:

Max Brito, AIA
Rhodes+Brito Architects
605 E. Robinson Street, Suite 750
Orlando, Florida 32801

All notices required to be given to the CITY shall be in writing, and shall be given by hand-delivery or United States mail, postage prepaid, to the Director and the City's Chief Procurement Officer, separately, at:

Corey Knight, P.E.
Public Works Director
City of Orlando
City Hall, 8th Floor
400 South Orange Avenue
Orlando, Florida, 32801

With a copy to: David Billingsley, CPSM, C.P.M.
Chief Procurement Officer
City of Orlando
City Hall, 4th Floor
400 South Orange Avenue
Orlando, Florida, 32801

Either party may change its address, for the purposes of this Subsection, by written notice to the other party given in accordance with the provisions of this Subsection.

SECTION 12 - CONFLICTS OF INTEREST

The CONSULTANT represents and warrants unto the CITY that no officer, employee, or agent of the CITY, nor their spouse or child, has any material interest, either directly or indirectly, in the business of the CONSULTANT to be conducted hereunder, whether as an officer, partner, director, proprietor, or otherwise. The CONSULTANT further represents and warrants to the CITY 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 Contract, and that it has not paid, or agreed to pay, or given or offered any fee, commission, percentage, gift, loan, or anything of value (Value) to any person, company, corporation, individual, or firm, other than bona fide Personnel working solely for the CONSULTANT, in consideration for or contingent upon, or resulting from the award or making of this Contract. Further, the CONSULTANT also acknowledges that it has not agreed, as an expressed or implied condition for obtaining this Contract, to employ or retain the services of any person, company, individual or firm in connection with carrying out this Contract. It is absolutely understood and agreed by the CONSULTANT that, for the breach or violation of this Subsection, the CITY shall have the right to terminate this Contract without liability and at its sole discretion, and to deduct from any amounts owed, or to otherwise recover, the full amount of any Value paid by the CONSULTANT.

SECTION 13 - WAIVER OF CLAIM

The CONSULTANT and the CITY hereby mutually waive any claim against each other, their elected or appointed officials, agents, and employees, for any loss of anticipated profits caused by any suit or proceedings brought by any third party directly or indirectly attacking the validity of this Contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this Contract null, void, or voidable, or delaying the same, or any part thereof, from being carried out.

SECTION 14 – CITY REPRESENTATIVE

The CITY's Director of Public Works or any of his authorized designee(s) for the Project, including but not limited to the Project Manager, may act as the CITY's agent with respect to the Services to be rendered by the CONSULTANT hereunder, and, except as expressly set forth below, shall have full authority to take all actions on behalf of the CITY related to this Contract, including but not limited to transmitting all instructions, receiving information, notifying CONSULTANT of any breaches of this Contract or improperly performed work, and communicating the CITY's policies and decisions to the CONSULTANT. The CITY's Director of Public Works' authority to act shall be in addition to any authority granted to specific CITY employees in other sections of this Contract. Any action that may be taken by the CITY's Director of Public Works or his designee related to this Contract, may also be taken by the CITY's Chief Procurement Officer or his designee. Notwithstanding the preceding, any final action by the CITY to terminate this Contract in whole, whether for cause or convenience, may only be taken by the CITY's Chief Procurement Officer or his designee; provided, however, that nothing herein shall be deemed to preclude the Director of Public Works or his designee from suspending work or terminating work, in whole or in part, under a particular Services Authorization.

SECTION 15 - CONSULTANT'S PROJECT TEAM

The CONSULTANT shall assign members of its staff as the CONSULTANT's Principal-in-Charge, Project Manager and Key Personnel (Project Team), who shall collectively devote such working time and attention as may be reasonably required to ensure that the Services are properly, economically, and efficiently performed. The CONSULTANT shall indicate to the CITY, as a part of each Services Authorization, the authority and powers that the CONSULTANT's Project Team shall possess during the life of that Project. The CONSULTANT agrees that the CITY shall have the right to approve the CONSULTANT's Project Team, and that the CONSULTANT shall not change any member of its Key Personnel without written notice to the CITY. Furthermore, if any member of the CONSULTANT's Project Team is removed from his Project duties, or his employment is otherwise terminated or curtailed by the CONSULTANT, or if the CONSULTANT's Project Team member terminates his employment with the CONSULTANT, then the CONSULTANT shall promptly replace its Project Team member with a person of comparable experience and expertise, who shall also be subject to the CITY's approval. The CITY agrees that its approval shall not be unreasonably withheld.

SECTION 16 - INDEMNIFICATION AND INSURANCE

16.1 Indemnification and Repair of Damage.

16.1.1 Consultant's Indemnification of City.

The CONSULTANT shall indemnify and hold harmless the CITY, its employees and officers, from liabilities, damages, losses and costs including, but not limited to, reasonable attorneys' 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 the Contract. This provision shall survive the expiration or termination of the Contract.

16.2 Insurance.

16.2.1 General.

CONSULTANT and its Subconsultants of all tiers will be required at their own expense to maintain in effect at all times during the performance of Services insurance coverages with limits not less than those set forth below with insurers and under forms of policies satisfactory to the CITY. It shall be the

responsibility of the CONSULTANT to maintain the required insurance coverages and to assure that Subconsultants maintain required insurance coverages at all times. Failure of CONSULTANT to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation. The requirements specified herein as to types, limits, and CITY's approval of insurance coverage to be maintained by CONSULTANT and its Subconsultants are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the CONSULTANTS and its Subconsultants under a contract. Any insurance carried by the CITY that may be applicable shall be deemed to be excess insurance and the CONSULTANT's insurance primary for all purposes despite any conflicting provision in the CONSULTANT's policies to the contrary. Failure of the CONSULTANT or its Subconsultants to maintain insurance as specified herein or to otherwise comply with the provisions of this Section 16.2 shall be grounds for termination of this Contract as specified in Section 8.

16.2.2 Certificates of Insurance.

Prior to commencing work, and as a condition precedent to the CONSULTANT's and its Subconsultants' initiation of performance, the CONSULTANT and its Subconsultants shall furnish the CITY with certificates of insurance as evidence that policies providing the required coverage and limits of insurance are in full force and effect. The certificates shall provide that any company issuing an insurance policy for the work under a contract shall provide not less than thirty (30) days advance notice in writing to the CITY prior to cancellation, termination, or material change of any policy of insurance (except for notice of non-payment of premium for which not less than ten (10) days advance notice in writing shall be required). In addition, the CONSULTANT shall immediately provide written notice to the CITY upon receipt of notice of cancellation of an insurance policy or a decision to terminate an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type (except the Errors and Omissions policy).

16.2.3. Additional Insureds.

All insurance coverages furnished except Professional Liability, Workers' Compensation and Employers' Liability shall include the CITY and its officers, elected officials, and employees as additional insureds with respect to the activities of the CONSULTANT and its Subconsultants. The CITY shall not by reason of their inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

16.2.4 Waiver of Subrogation.

The CONSULTANT and its subconsultants shall require their insurance carriers, with respect to all insurance policies except the Errors and Omissions policy, to waive all rights of subrogation against the CITY, its officers, elected officials, agents and employees and against other contractors and subcontractors.

16.2.5 Types of Coverage to be Provided.

The CONSULTANT (and its Subconsultants to the same extent and on the same terms as set forth below for CONSULTANT) shall maintain the following coverages and furnish the certificate(s) of insurance on the policies and renewals thereof which indicate that insurance coverage has been obtained meeting the requirements of the contract:

16.2.5.1 Workers' Compensation and Employer's Liability.

This insurance shall protect the CONSULTANT against all claims under applicable state workers' compensation laws. The CONSULTANT shall also be protected against claims for injury, disease, or death of employees that, for any reason, may not fall within the provisions of a workers' compensation law. This policy shall include an "all states" or "other states" endorsement. Exemption certificates shall

be accepted if valid during the term of the contract, but only for those eligible corporate officers pursuant to Chapter 440 of the Florida Statutes. Proof of workers' compensation coverage must still be provided for all employees, sub-contractors not eligible for exemption. The liability limits shall not be less than:

Workers' compensation:	Statutory
Employer's Liability:	\$100,000 each occurrence

16.2.5.2 Comprehensive Automobile Liability.

This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability limits shall not be less than:

Bodily injury and Property damage:	\$1,000,000 combined single limit each occurrence
---------------------------------------	--

16.2.5.3 Commercial General Liability.

This insurance shall be an "occurrence" type policy (excluding automobile liability) written in comprehensive form and shall protect the CONSULTANT and the additional insureds against all claims arising from bodily injury, sickness, disease, or death of any person or damage to property of the CITY or others arising out of any act or omission of the CONSULTANT or its agents, employees, or subcontractors. This policy shall also include protection against claims insured by usual bodily injury liability coverage, a "contractual liability" endorsement to insure the contractual liability assumed by the CONSULTANT under this Contract with the City, and "completed Operations and Products Liability" coverage (to remain in force for 2 years after final payment and subsequent to project completion). If the CONSULTANT's work, or work under its direction, requires blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of structures, or damage to underground property. The liability limits shall not be less than:

Bodily injury and Property damage:	\$1,000,000 combined single limit each occurrence
---------------------------------------	--

16.2.5.4 Consultant's Errors and Omissions Policy.

The CONSULTANT shall also purchase, maintain, and keep in full force, effect, and good standing, a professional liability/errors and omissions insurance policy having minimum limits of \$1,000,000, with a maximum deductible of \$100,000, or the CONSULTANT shall provide the CITY with policy coverage wherein the insurer agrees to pay claims (up to the limits of coverage), and will thereafter recover the deductible from the insured-CONSULTANT. The errors and omissions policy shall be in effect and shall insure the CONSULTANT's performance on CITY projects.

16.2.6 City's Right to Inspect Policies.

The CONSULTANT shall, upon thirty (30) days' written request from the CITY, deliver copies to the CITY of any or all insurance policies that are required in this Contract.

SECTION 17 - MISCELLANEOUS PROVISIONS

17.1 Non-Exclusive Contract.

This Contract is non-exclusive, and may be terminated at the CITY's convenience with the proper notice having been given to the CONSULTANT pursuant to Section 8, above. It is understood and acknowledged that the rights granted herein to the CONSULTANT are non-exclusive, and the CITY shall have the right, at any time, to enter into similar agreements with other engineers, architects, landscape architects, planners, consultants, contractors, subconsultants, and so forth, to have them perform such professional services as the CITY may desire.

17.2 Local, State and Federal Obligations.

17.2.1 Discrimination.

The CONSULTANT, for itself, its delegates, successors-in-interest, and its assigns, and as a part of the consideration hereof, does hereby covenant and agree that, 1) in the furnishing of Services to the CITY hereunder, no person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in regard to this Contract on the grounds of such person's race, color, creed, national origin, disability, religion, sex, sexual orientation, gender identity or marital status; and 2) the CONSULTANT shall comply with all existing requirements concerning discrimination imposed by any and all applicable local, state, and federal rules, regulations, or guidelines, and as such rules, regulations, or guidelines may be from time to time amended. In the event of a breach of any of the nondiscrimination covenants described in this Subsection, the CITY shall have the right to terminate this Contract, with cause, as described above.

17.2.2 Compliance with Law.

The CONSULTANT and its employees shall promptly observe, comply with, and execute the provision of any and all federal, state, and local laws, rules, regulations, requirements, ordinances, and orders which may pertain or apply to the Services that may be rendered hereto, or to the wages paid by the CONSULTANT to its employees. The CONSULTANT shall also require, by contract, that all Subconsultants shall comply with the provisions of this Subsection.

17.2.3 Licenses.

The CONSULTANT shall, during the life of this Contract, procure and keep in full force, effect, and good standing all necessary licenses, registrations, certificates, permits, and other authorizations as are required by local, state, or federal law, in order for the CONSULTANT to render its Services or Work as described herein. The CONSULTANT shall also require all Subconsultants to comply by contract with the provisions of this Subsection.

17.2.4 Compliance With New Regulations.

The CONSULTANT agrees that at such time as the local, state, or federal agencies modify their grant procedures in order for the CITY or the CONSULTANT to qualify for local, state, or federal funding for the Services to be rendered by the CONSULTANT, then the CONSULTANT shall consent to and make such modifications or amendments in a timely manner. If the CONSULTANT is unable to comply with applicable local, state, or federal laws and regulations governing the grant of such funds for Services to be rendered herein, then the CITY shall have the right, by written notice to the CONSULTANT, to terminate this Contract for convenience. Furthermore, if the CONSULTANT's compliance with such laws, regulations, rules, or procedures causes a material change to a term or condition of this Contract, or to any Services Authorization, then the CITY agrees, upon sufficient proof of material changes as may be presented to it by the CONSULTANT, to amend all related CITY/CONSULTANT contractual obligations, and to revise such Project budgets accordingly.

17.2.5 License Fee and Royalties.

The CONSULTANT agrees that any invention, design, process, product, device, proprietary system, or proprietary process for which an approval (of any type) may be necessary, shall be detailed by CONSULTANT in the Services Authorization, and shall be secured by the CONSULTANT (or, at the CONSULTANT's direction, by the Contractor during the CONSULTANT's construction phase services as may be memorialized in a Services Authorization) before the completion of any Services Authorization.

17.3 Consultant Not Agent of City.

The CONSULTANT is not authorized to act as the CITY's agent hereunder and shall have no authority, expressed or implied, to act for or bind the CITY hereunder, either in CONSULTANT's relations with Subconsultants, or in any other manner whatsoever except as otherwise stated in a Services Authorization.

17.4 Subconsultants.

17.4.1 General.

The CONSULTANT shall have the right, conditioned upon the CITY's prior consent (which shall not be unreasonably withheld), to employ Subconsultants; provided, however, that the CONSULTANT shall, 1) inform the CITY as to what particular Services the Subconsultants shall be employed to do; 2) inform the CITY as to what extent (what percentage) of the total Project Services each Subconsultant shall be employed to do; 3) be solely responsible for the performance of all of its Subconsultants, including but not limited to their maintenance of schedules, correlation of Services, or both of these things, and the resolution of all differences between them; 4) promptly terminate the use and services of any Subconsultants upon written request from the CITY (which may be made for the CITY's convenience); 5) promptly replace each such terminated Subconsultant with a Subconsultant of comparable experience and expertise; 6) cause a Subconsultant to remove any employee(s) from a Project as the CITY shall request (again for the CITY's convenience); and 7) assure that such employee(s) shall be promptly replaced by other employee(s) of comparable experience and expertise and who are otherwise acceptable to the CITY. After the Subconsultant has received notice of the termination, or two (2) business days after the CITY has notified the CONSULTANT in writing of the required termination of the Subconsultant or the Subconsultant's employee, whichever shall occur first, the CITY shall have no obligation to reimburse the CONSULTANT for the Services subsequent to the notice of termination of any Subconsultant or employee who may be terminated pursuant to the provision of this Subsection; provided, however, that the CITY shall reimburse the CONSULTANT for the CONSULTANT's reasonable and provable Subconsultant demobilization or remobilization costs, as defined in Subsection 5.8.3 ("Suspension"), if the CITY terminates a Subconsultant for convenience; but provided, however, that the CONSULTANT shall receive no reimbursement for demobilization costs if a Subconsultant is terminated for cause. It is also understood that the CITY does not, by accepting a Subconsultant, warrant or guarantee the reliability or effectiveness of that entity's Services.

17.4.2 Work Outside Scope and Time of Payment.

The CITY shall have no obligation to reimburse the CONSULTANT for the services of any Subconsultant not previously made known to the CITY, or that are otherwise outside of the Scope of any particular Project Services Authorization, unless and until the CITY has given written approval of such reimbursement. The CONSULTANT agrees to pay all such Subconsultants for their Project-related Services no later than thirty (30) calendar days after the CONSULTANT's receipt of payment from the CITY for work performed by the Subconsultants, unless such payment is disputed by the CONSULTANT, and the CITY receives written notice thereof.

17.4.3 Subconsultant Contracts.

The CONSULTANT shall provide a copy of all relevant provisions of this Contract to all Subconsultants hired by it, or for which it may have management responsibilities as described in a Services Authorization and shall inform all Subconsultants that all Services performed hereunder shall strictly comply with the Contract terms and provisions. The CONSULTANT shall also furnish the CITY, upon demand, with a copy of all CONSULTANT-Subconsultant contracts.

17.5 Assignment and Delegation.

The CITY and the CONSULTANT bind themselves and their partners, successors, executors, administrators, and assigns, to the other party of this Contract in respect to all duties, rights, responsibilities, obligations, provisions, conditions, and covenants of this Contract; except that the CONSULTANT shall not assign, transfer, or delegate its rights or duties, or both of these things, in this Contract without the prior written consent of the CITY. The CITY has the absolute right to withhold such consent at its convenience, and, furthermore, if the CONSULTANT attempts to assign, transfer, or delegate its rights or duties in violation of these provisions without the CITY's consent, then the CITY may immediately terminate this Contract upon written notice as a breach of contract by the CONSULTANT and a failure by the CONSULTANT to substantially perform its obligations hereunder, and any such assignment shall be null, void, and of no legal effect. The CITY shall have the right to assign its rights (or any part of them) or to delegate its duties and obligations (or any part of them) to another entity that shall be bound by all applicable terms and conditions as provided in this Contract.

17.6 Audits.

17.6.1 Periodic Auditing of Consultant's Books.

The CITY shall have the right, at any reasonable time either directly or through any of its designated agents or representatives, to inspect and audit the Books for the purpose of verifying the accuracy of any Payment Statement or Completion Report. In addition to the above and upon request of the CITY, the CONSULTANT shall prepare an audit (for the most recent fiscal year) for the CITY, which shall include the CONSULTANT's paid salary, fringe benefits, general and administrative overhead costs, profit and the total amount of money paid by the CITY to the CONSULTANT. The Fiscal Report shall be certified as true and correct by, and shall bear the signature of, the CONSULTANT's chief financial officer or its certified public accountant.

17.6.2 Overcharge.

If it is established by the audit, or by any other means, that the CONSULTANT has overbilled or overstated its costs, fees, or reimbursable expenses (Overcharge) to the City, then the amount of any Overcharge shall be refunded by the CONSULTANT, together with interest at the rate of one percent (1%) per month and the CITY's reasonable and provable costs (including the auditing expenses) in discovering the Overcharge and effecting its repayment.

17.7 Truth in Negotiations.

The CONSULTANT shall execute a Truth-in-Negotiation Certificate in the form attached hereto and made a part hereof, by reference, as Exhibit I. It is agreed by the CONSULTANT that any Project or Services Authorization price, and any additions thereto, shall be adjusted to exclude any significant sums [plus interest at twelve percent (12%) per annum simple interest on the sums, from the date of payment by the CITY] by which the CITY determines that the price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

17.8 Entire Agreement.

This Contract, including the Exhibits hereto, constitutes the entire agreement between the parties, and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth therein, and that specifically related to the execution of this particular document.

17.9 Amendment.

This Contract may be amended or modified only by a Services Authorization, or an Amendment, and as duly authorized and executed by the parties.

17.10 Validity.

The validity, interpretation, construction, and effect of this Contract shall be in accordance with and governed by the laws of the State of Florida, only. In the event any provision hereof is determined to be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Contract, which shall remain in full force and effect. To that extent, this Contract is deemed severable.

17.11 Headings.

The headings of the Sections or Subsections of this Contract are for the purpose of convenience only, and shall not be deemed to expand, limit, or modify the provisions contained in such Sections or Subsections.

17.12 Timeliness.

The CITY and the CONSULTANT acknowledge and understand that time is of the essence in this Contract, and that the Services shall be performed in as expeditious a manner as may be in accord with the nature of each Project.

17.13 Public Entity Crime.

Any Person or affiliate, as defined in 287.133 of the *Florida Statutes*, shall not be allowed to contract with the CITY, nor be allowed to enter into a subcontract for work on this Contract, if such a person or affiliate has been convicted of a public entity crime within three (3) years of the date this Contract was advertised for proposals, or if such person or affiliate was listed on the State's convicted vendor list within three (3) years of the date this Contract was advertised, whichever time period is greater. A public entity crime means a violation of any state or federal law with respect to and directly related to the transaction of business with any public entity or agency (federal, state or local), involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, forgery, falsification of records, receiving stolen property or material misrepresentation. Any Contract with the CITY obtained in violation of this Section shall be subject to immediate termination for cause without cure upon notice by the CITY to CONSULTANT. A Subconsultant who obtains a subcontract in violation of this Section shall be removed from the Project and promptly replaced by a Subconsultant acceptable to the City.

17.14 Force Majeure.

The parties acknowledge that adverse weather conditions, acts of God, or other unforeseen circumstances of a similar nature, may necessitate modifications to a Services Authorization, such modifications to

include, but not limited to the particular Services Authorization's Scope, Term, and Fee. If such conditions and circumstances do in fact occur, then the CITY and CONSULTANT shall mutually agree, in writing, to the modifications to be made to any Services Authorization.

17.15 Rights Cumulative; No Waiver.

No right or remedy herein conferred upon or reserved to either party hereto is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of a default hereunder. The failure of either party hereto to insist, at any time, upon the strict observance or performance of any of the provisions of this Contract, or to exercise any right or remedy as provided in this Contract, shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this Contract to the parties hereof may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

17.16 Venue.

The venue of any litigation or other judicial proceeding between the parties shall be the courts of Orange County, Florida.

17.17 MBE/WBE Participation.

17.17.1 Chapter 57, Articles II and III, of the Orlando City Code, establishes goals of 18% and 6%, respectively, of the CITY's annual monetary value of contracts for supplies, services and construction to be awarded to City certified or recognized Minority Business Enterprises (MBE) and City certified or recognized Women-Owned Business Enterprises (WBE).

17.17.2 The CONSULTANT agrees to make a good faith effort to provide that 18% of the dollar amount of the services awarded to the CONSULTANT pursuant to the Contract is performed by MBEs and 6% of the dollar amount of the Contract is performed by WBEs. CONSULTANT shall make a good faith effort to utilize the MBEs and WBEs for the services and in the amounts identified in its Qualification Statement.

17.17.3 The CONSULTANT may, under limited circumstances, substitute a MBE or WBE firm from a firm identified in a Services Authorization. However, substitution shall only be allowed upon good cause shown as determined by the CITY's MBE Coordinator. The CONSULTANT must receive written approval of the MBE Coordinator before substitution will be allowed. Failure to comply shall result in the CITY imposing penalties on the CONSULTANT; such penalties may include suspension or debarment from obtaining future CITY contracts.

17.17.4 The CONSULTANT shall submit monthly audits to the CITY through the MBE Office's B2G Contract Compliance System, documenting its compliance with the MBE/WBE participation obligations of this Contract. The audit shall be completed by the 5th of each month after the execution of the first Services Authorization. CONSULTANT shall enter such information as may be requested by the system.

17.17.5 Each Services Authorization shall be evaluated by the CITY for MBE/WBE participation. The extent and meaningfulness of such participation shall be reviewed. The participation must be such that the MBE/WBE firms are performing services in accordance with their area of certification.

17.17.6 There shall be no third party beneficiaries of the Minority Business Enterprise or Women-Owned Business Enterprise provisions of this Contract. The CITY shall have the exclusive means of enforcement of the MBE/WBE Ordinance and contract terms. No right of action for non-signatories of the Contract is intended or implied. The CITY is the sole judge of compliance and whether a good faith effort has been made under the Ordinance and the Contract.

17.18 Prohibition Against Contracting with Scrutinized Companies.

In accordance with Section 287.135(2) of the Florida Statutes, “[a] company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of:

- (a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing a contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- (b) One million dollars or more if, at the time of bidding on, or submitting a proposal for, or entering into or renewing such contract, the company is:
 - 1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, created pursuant to s. 215.473, or
 - 2. Is engaged in business operations in Cuba or Syria.”

Section 215.473 of the Florida Statutes defines a company to include “all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit.” CONSULTANT certifies that it and those related entities of CONSULTANT as defined above by Florida law above are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, CONSULTANT certifies that it and those related entities of CONSULTANT as defined above by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. CONSULTANT shall be required to recertify the aforementioned certifications at each renewal of the Contract. The CITY may terminate this Contract if CONSULTANT or any of those related entities of CONSULTANT as defined above by Florida law are found to have submitted a false certification or any of the following occur with respect to the CONSULTANT or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) if this Contract ever exceeds one million dollars, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, or it is found to have been engaged in business operations in Cuba or Syria. Notwithstanding the preceding, the CITY reserves the right and may, in its sole discretion, on a case by case basis, permit a company on such lists or engaged in business operations in Cuba or Syria to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of one million dollars or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, should the CITY determine that the conditions set forth in Section 287.135(4) of the Florida Statutes are met.

17.19 Employment Eligibility; E-Verify System. This Contract is subject to the terms, conditions, provisions and requirements of Section 448.095 of the Florida Statutes which is incorporated herein by this reference. Pursuant to Section 448.095 of the Florida Statutes, CONSULTANT represents and warrants that it has registered with and uses the E-Verify System to verify the work authorization status of all newly hired employees and shall continue to do so at all times during the term of the Contract. If CONSULTANT enters into a contract with a subcontractor, the subcontractor must provide the CONSULTANT with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

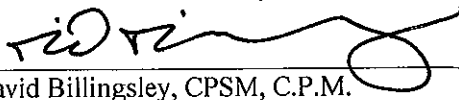
17.20 Limitation of Individual Liability. PURSUANT TO FS 558.0035, EMPLOYEES OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT.

17.21 Human Trafficking Affidavit. Pursuant to Section 787.06(13) of the Florida Statutes, CONSULTANT shall, within a reasonable time after execution of this Agreement, and in the form attached hereto as Exhibit II, provide CITY with an affidavit signed by an officer or other authorized representative of CONSULTANT under penalty of perjury attesting that CONSULTANT does not use coercion for labor or services, as those terms are defined in Section 787.06(2)(a), (e), and (h) of the Florida Statutes. Additionally, CONSULTANT shall re-execute and provide such an affidavit within a reasonable time after any renewal or extension of this Agreement. Ensuring compliance with this section shall be the obligation solely of CONSULTANT, and this obligation shall not be waived or relieved by any failure of CITY to request or insist upon the completion of any affidavit required under applicable law. CONSULTANT failure to comply with this section may constitute grounds for termination of this Agreement pursuant to Section 8.2 hereof.

17.22 Entities of Foreign Countries of Concern Affidavit. Pursuant to Section 287.138 of the Florida Statutes, in the event this Agreement grants CONSULTANT access to an individual's personal identifying information, CONSULTANT shall, within a reasonable time after execution of this Agreement, and in the form prescribed by the Department of Management Services and attached hereto as Exhibit III, provide CITY with an affidavit signed by an officer or other authorized representative of CONSULTANT under penalty of perjury attesting that CONSULTANT is not owned by the government of a foreign country of concern (as defined in Section 287.138(1)(c)), that the government of a foreign country of concern does not have a controlling interest in CONSULTANT, and that CONSULTANT is not organized under the laws of and does not have its principal place of business in a foreign country of concern. Additionally, CONSULTANT shall re-execute and provide such an affidavit within a reasonable time after any renewal or extension of this Agreement. This obligation shall not be waived or relieved by any failure of CITY to request or insist upon the completion of any affidavit required under applicable law. CONSULTANT's failure to comply with this section may constitute grounds for termination of this Agreement pursuant to Section 8 hereof.

IN WITNESS WHEREOF, this Contract has been fully executed on behalf of the parties hereto and by its duly authorized representatives, as of the date first written above.


City of Orlando, Florida

By: 
David Billingsley, CPSM, C.P.M.
Chief Procurement Officer

Date: February 28, 2025

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida, only.

February 27, 2025


Mitchell L. Davis
Assistant City Attorney
Orlando, Florida

Rhodes & Brito Architects, Inc.
d/b/a Rhodes+Brito Architects

By:



RUFFIN RHODES

(Print Name)

Title:

PRESIDENT

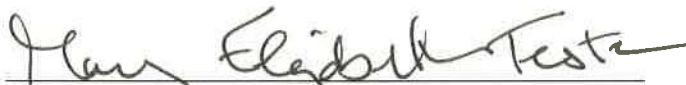
STATE OF FLORIDA }

COUNTY OF Orange }

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24th day of February, 2025, by Ruffin Rhodes (name of person) as President (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for Rhodes + Brito Architects (name of entity/party on behalf of whom instrument was executed).



MARY ELIZABETH TESTA
Notary Public
State of Florida
Comm# HH463123
Expires 11/12/2027



Signature of Notary Public – State of Florida

Print, Type, or Stamp Notary Name Mary Elizabeth Testa

(Affix Notary Stamp or Seal Above)


☒ Personally Known or ☐ Produced Identification

Type of Identification Produced _____

TRUTH-IN-NEGOTIATION CERTIFICATE

The CONSULTANT hereby certifies that all wage rates, and any and all other unit costs supporting the compensation to be paid to the CONSULTANT pursuant to a Services Authorization for the Services as set forth therein, will be accurate, complete, and current at the date of the Services Authorization's execution.

Rhodes & Brito Architects, Inc.
d/b/a Rhodes+Brito Architects

By: 
RUFFIN RHODES
(Print Name)

Title: PRESIDENT

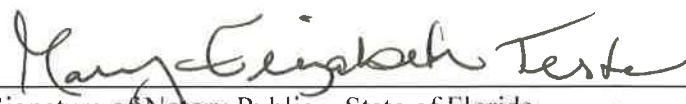
STATE OF FLORIDA }

COUNTY OF Orange }

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24th day of February, 2025, by Ruffin Rhodes (name of person) as President (type of authority, (e.g., officer, trustee, attorney in fact, etc.) for Rhodes + Brito Architects (name of entity/party on behalf of whom instrument was executed).



MARY ELIZABETH TESTA
Notary Public
State of Florida
Comm# HH463123
Expires 11/12/2027


Signature of Notary Public – State of Florida
Print, Type, or Stamp Notary Name: Mary Elizabeth Testa

(Affix Notary Stamp or Seal Above)

☒ Personally Known or ☐ Produced Identification
Type of Identification Produced _____

EXHIBIT I

HUMAN TRAFFICKING AFFIDAVIT

The undersigned, on behalf of Consultant, hereby attests as follows:

- A. Consultant understands and affirms that Section 787.06(13), Florida Statutes, prohibits the City from executing, renewing, or extending a contract to entities that use coercion for labor or services, with such terms defined as follows:
- **“Coercion”** means: (1) using or threatening to use physical force against any person; (2) restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; (3) using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; (4) destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; (5) causing or threatening to cause financial harm to any person; (6) enticing or luring any person by fraud or deceit; or (7) providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person.
 - **“Labor”** means work of economic or financial value.
 - **“Services”** means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- B. Consultant hereby attests, under penalty of perjury, that Consultant does not use coercion for labor or services as defined in Section 787.06(2), Florida Statutes.

I, the undersigned, am an officer or representative of the nongovernmental entity named below, and hereby represent that I: make the above attestation based upon personal knowledge; am over the age of 18 years and otherwise competent to make the above attestation; and am authorized to legally bind and make the above attestation on behalf of the Architect. **Under penalties of perjury, I declare that I have read the forgoing document and that the facts stated in it are true.** Further Affiant sayeth naught.

Authorized Signature: _____

Date: 2.24.2025

Consultant: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☒ physical presence or

☐ online notarization, this 24th day of February, 2025, by Ruffin Rhodes as President on behalf of the company/corporation. They

☒ are personally known to me or ☐ have produced _____ as identification.

Signature of Notary Public

Mary Elizabeth Testa
Name of Notary

My Commission Expires: 11/12/2027
Stamped

Typed, Printed or

EXHIBIT II



MARY ELIZABETH TESTA
Notary Public
State of Florida
Comm# HH463123
Expires 11/12/2027

**FOREIGN COUNTRY OF CONCERN ATTESTATION
(PUR 1355)**

This form must be completed by an officer or representative of an entity submitting a bid, proposal, or reply to, or entering into, renewing, or extending, a contract with a Governmental Entity which would grant the entity access to an individual's Personal Identifying Information. Capitalized terms used herein have the definitions ascribed in Rule 60A-1.020, F.A.C.

RHODES & BRITO ARCHITECTS INC., (CONSULTANT) is not owned by the government of a Foreign Country of Concern, is not organized under the laws of nor has its Principal Place of Business in a Foreign Country of Concern, and the government of a Foreign Country of Concern does not have a Controlling Interest in the entity.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name: RUFFIN RHODES

Title: PRESIDENT

Signature: 

Date: 2.24.2025

EXHIBIT III