

**AGREEMENT BETWEEN THE CITY OF WESTLAKE  
AND  
NOVA ENGINEERING AND ENVIRONMENTAL, LLC**

THIS AGREEMENT made and entered into this 10<sup>th</sup> day of October, 2016 by and between, the City of Westlake ("CITY"), a municipality, located in Palm Beach County, Florida and whose address is 4001 Seminole Pratt Whitney Road, Loxahatchee, Florida 33470, and Nova Engineering and Environmental, LLC, consultants and engineers whose address is 4350 Oakes Road, Suite 518, Fort Lauderdale, Florida 33314 ("NOVA"), the parties agree to enter into a "piggyback" contract with modifications as contained herein, all other provision in the agreement not modified herein, remain in full force and effect.

**RECITALS**

**WHEREAS**, the City was incorporated on June 20, 2016, and whereas the City does not intend to have employees of the City, but intends to enter into contract service agreements to provide traditional municipal services to the City of Westlake; and

**WHEREAS**, the City is electing to waive the competitive bid process for the provision of building inspection and plan examination services, including building inspections, a building official and other functions typically provided by a municipal building department; and

**WHEREAS**, Nova has an existing contract for building inspection and plan examination services with the City of Ft. Lauderdale, which contract was entered into through the competitive bid process and said contract is still valid and existing; and

**WHEREAS**, the City Council determined that Nova is qualified to serve as Building Official, providing building inspection service, plan examination service and any other services as requested by the City Manager; and

**WHEREAS**, City intends to employ Nova to provide professional building services to the City, which services may include, but are not limited to building review, plan review, plan examination, construction administration, permitting, and any other service as requested by the City Manager; and

**WHEREAS**, Nova shall serve as City's professional representative in each service or project to which this Agreement applies and will give consultation and advice to the City during the performance of its services.

**NOW, THEREFORE**, for and in consideration of the mutual covenants herein contained the acts and deeds to be performed by the parties, and the payments by the City to the Nova of the sums of money herein specified, the City and Nova wish to enter into this agreement between them, as follows:

**ARTICLE 1. CONTRACT DOCUMENTS AND TERM.** Nova's existing contract with the City of Ft. Lauderdale is attached hereto and incorporated herein, as Exhibit "A". All references to City shall mean the City of Westlake, Florida.

This provision shall replace, paragraph III, "Term of Agreement", and shall be replaced with the following term. This Agreement shall commence upon full execution by all parties hereto and shall be for a two (2) year term, with the option to renew for an additional one (1) year term.

## **ARTICLE 2. SCOPE OF SERVICES.**

Nova will provide general building inspection and plan examination services as set forth in RFP 855-11487, with the City of Ft. Lauderdale. The RFP and Nova's responses thereto are attached hereto as Exhibit "B". In addition to the scope of services as set forth in the Agreement, Nova shall also provide the services as set forth below:

1. Nova shall act in the capacity of the building official for the City of Westlake in ensuring compliance and consistency with the Florida Building Code and all other rules, regulations and laws of the State of Florida.
2. Preparation of any agenda memorandums, any necessary reports, plan amendments or building documents requested by the City Manager, complete final inspection issues on construction projects and attendance at meetings with management and meetings of the City Council.
3. All special projects assigned to Nova shall be approved by the City Manager prior to the commencement of any special project. In addition, Nova shall not commence any special project until a written work authorization has been issued or a Purchase Order received. Any assigned special project shall be performed within the time frame established by the CITY and Nova in each work authorization. Minor adjustments to the timetable from completion approved by CITY in advance, in writing, will not constitute non-performance by Nova per this Agreement.

**ARTICLE 3. COMPENSATION & REIMBURSABLE EXPENSES.** Reimbursable expenses consist of actual expenditures made by NOVA, its employees, or its consultants in the interest of the project for the incidental expenses as may be approved by the City Manager. Compensation is as set forth in the response to the RFP, as Cost Proposals, which are listed on an hourly basis for services to be performed.

**ARTICLE 4. REUSE OF DOCUMENTS.** All documents including drawings and specifications furnished by the NOVA pursuant to this Agreement are the property of the City. NOVA does not represent that the documents may be suitable for reuse by the City or others for any extensions of the work for which they were provided or any other project without consent by NOVA. Any reuse without specific written consent by NOVA will be at the City's sole risk and without liability or legal exposure to NOVA.

**ARTICLE 5. CONTINGENT FEE.** NOVA warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Nova, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Nova, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

**ARTICLE 6. PUBLIC RECORDS.** This provision shall be added to the General Conditions, contained within paragraph VI(CC), Public Records, as paragraph (e).

(e) Upon completion of this Agreement, transfer to City, at no cost, all public records in possession of Nova upon termination of this Agreement or keep and maintain public records required by City to perform the services. If Nova transfers the records to City, Engineer shall destroy any duplicate public records that are exempt or confidential and exempt. If Nova keeps and maintains public records upon completion of this Agreement, Nova shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request in a format that is compatible with the information technology systems of City. The failure of Nova to comply with the provisions set forth in this section shall constitute a material breach of this Agreement entitling City to exercise any remedy provided in this Agreement or under applicable law.

**ARTICLE 7. CONTROLLING LAW.** This provisions replaces the General Conditions, contained within paragraph VI(U). NOVA and the CITY agree that this Agreement shall be controlled and governed by the laws of the State of Florida. Venue for any legal dispute in a court of law shall be Palm Beach County, Florida.

**ARTICLE 8. TERMINATION.** This provision replaces, the "Termination for Cause" provision provided under the General Conditions, contained within paragraph VI(C). The CITY or NOVA may terminate this Agreement without cause upon sixty (60) days written notice. At such time as NOVA receives notification of the intent of the CITY to terminate the contract, NOVA shall not perform any further services unless directed to do so by the City Manager. In the event of any termination without cause, NOVA will be paid for services rendered to the date of termination and all reimbursable expenses incurred to date of termination.

The City may terminate this Agreement with cause upon written notice to NOVA. NOVA shall have thirty (30) days to cure any default for cause. In the event of any termination for cause where NOVA does not cure within the 30- day time frame, NOVA shall not perform any further services for the CITY after NOVA's receipt of notification of termination for cause, but NOVA shall be paid for services rendered to the date of termination and all reimbursable expenses incurred to the date of termination.

**ARTICLE 9. RECOVERY OF COSTS AND FEES.** This provision shall be added to the General Conditions, contained within paragraph VI(A). In the event either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover from the other party direct costs incurred, including reasonable attorneys' fees.

**ARTICLE 10. NOTICES.** All notices, requests, consents and other communications under this Agreement ("Notices") shall be in writing and shall be delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

A. As to the City: Ken Cassel, Manager  
4001 Seminole Pratt Whitney Road  
Westlake, Florida 33470

With a copy to: Pam E. Booker, Esquire  
4001 Seminole Pratt Whitney Road  
Westlake, FL 33470

B. As to the Nova: Nova Engineering & Environmental, LLC  
4350 Oakes Road, Suite 518  
Ft. Lauderdale, FL 33314


Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the City and counsel for the Engineer may deliver Notice on behalf of the City and the Engineer. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addresses set forth herein.

**ARTICLE 11. ACCEPTANCE.** Acceptance of this Agreement is indicated by the signature of the authorized representative of the City and Nova in the spaces provided below.

**IN WITNESS WHEREOF,** the parties hereto have caused these present to be executed the day and year first above written.

Attest: **CITY OF WESTLAKE, FLORIDA**

  
City Clerk, Sandra DeMarco

By:   
Roger Manning, Mayor

**NOVA ENGINEERING & ENVIRONMENTAL, LLC.**

  
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By:   
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Witness Jason Hill, Manager