

RESOLUTION 04-02-22

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH BAXTER & WOODMAN, INC., FOR THE PROVISION OF STORMWATER ENGINEERING SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town is empowered to enter into contracts with private corporations for services; and

WHEREAS, the Town is responsible for maintaining and operating a stormwater drainage system and associated infrastructure within the Town and requires a contractor to provide stormwater engineering services; and

WHEREAS, the City of West Palm Beach has previously competitively bid and pursuant to a competitive process awarded a three-year contract to Baxter & Woodman, Inc., (“Contractor”) to provide stormwater engineering services associated with the City of West Palm Beach’s stormwater drainage system and associated infrastructure; and

WHEREAS, the Contractor and the City of West Palm Beach have executed contract number 26968, effective from April 30, 2021 through April 30, 2024 for stormwater engineering services; and

WHEREAS, the City of West Palm Beach’s bid documents which solicited stormwater engineering services permitted the Contractor to provide these services to other governmental units based upon the same terms, conditions, and pricing, and the City of West Palm Beach’s contract with the Contractor also authorizes this; and

WHEREAS, pursuant to the Town’s purchasing procedures, the Town may enter into cooperative purchase contracts for services with contractors when another public agency has competitively solicited services from contractors and the contractor has agreed to offer its services to other public entities based upon the same terms, conditions, and pricing; and

WHEREAS, the Town Manager recommends that the Commission enter into an agreement with the Contractor whereby the Contractor would provide drainage and

stormwater engineering services based upon the same pricing, terms and conditions that the Contractor agreed to in its contract with the City of West Palm Beach; and

WHEREAS, the Contractor has agreed to provide the same services to the Town based upon the same pricing, terms and conditions as set forth in the contract the Contractor entered into with the City of West Palm Beach, contract number 26968.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein.

Section 2. The Mayor is hereby authorized and directed to execute the contract with the Contractor for the provision of drainage and stormwater engineering services, as set forth in the attached Exhibit "A", and which is incorporated by reference.

Section 3. This Resolution shall take effect immediately upon its execution.

The foregoing Resolution was offered by Commissioner Michaud, who moved its adoption. The motion was seconded by Commissioner Linden and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	—
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	—
COMMISSIONER ERIN FLAHERTY	<u>/</u>	—
COMMISSIONER JOHN LINDEN	<u>/</u>	—
COMMISSIONER ROGER MICHAUD	<u>/</u>	—

The Town Commission thereupon declared the foregoing Resolution **04-02-22** duly passed and adopted this 16 day of February, 2022.

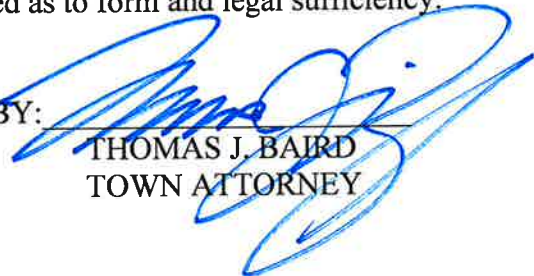
TOWN OF LAKE PARK, FLORIDA

BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK

Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY



**AGREEMENT FOR THE PROVISION OF STORMWATER
PROFESSIONAL ENGINEERING SERVICES**

THIS AGREEMENT FOR THE PROVISION OF STORMWATER ENGINEERING SERVICES (AGREEMENT) is made and entered into this 16 day of February 2022, by and between the Town of Lake Park, a municipal corporation of the State of Florida, 535 Park Avenue, Lake Park, Florida, 33403 ("Town") and Baxter & Woodman, Inc., 8678 Ridgefield Road, Crystal Lake, IL 60012 ("Contractor").

WITNESSETH THAT

WHEREAS, the Town is a municipality and given those powers and responsibilities enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the Town is responsible for maintaining and operating its stormwater drainage system and associated infrastructure; and

WHEREAS, the Town requires a contractor to perform drainage and stormwater engineering services, including but not limited to drainage, stormwater management, planning, modeling, and low impact development; and

WHEREAS, pursuant to Florida law, and the Town's procurement policies, the Town has the legal authority to enter into contracts which are the subject of cooperative purchase agreements whereby another governmental entity has competitively solicited, selected and contracted with a contractor for substantially the same services and pricing as those that are needed by the town; and

WHEREAS, the City of West Palm Beach solicited through a competitive solicitation process pursuant to applicable laws, contracted with the Contractor for it to provide engineering services for substantially the same drainage, stormwater management, planning, modeling, and low impact development services as are now sought by the Town; and

WHEREAS, on April 30, 2021, the Contractor entered into that certain Agreement Number 26968 with the City of West Palm Beach, whereby it contracted to provide stormwater engineering services associated with the City's drainage and stormwater infrastructure, a copy of which is attached hereto as Exhibit 'A' and incorporated herein by reference only; and

WHEREAS, the Town desires to enter into a contract with Contractor in accordance with the pricing, terms, and conditions of the contract the Contractor entered into between the City of West Palm Beach for stormwater engineering professional services.

NOW THEREFORE, the Town and the Contractor in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. The above stated recitals are true and correct.
2. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
 - a. Keep and maintain public records required by the Town to perform the services which are the subject of this Agreement.
 - b. Upon the request of the Town, provide any such public records.
 - c. Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the term of this Agreement, and following completion of this Agreement if the Contractor does not transfer the records which are part of this Agreement to the Town.
 - d. Upon the completion of the term of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor; or keep and maintain the public records associated with the services provided for in the Agreement. If the Contractor transfers all public records to the Town upon completion of the term of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential from public records disclosure. If the Contractor keeps and maintains public records upon completion of the term of the Agreement, the Contractor shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request, in a format that is compatible with the information technology systems of the Town.
 - e. If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, including its duty to provide public records relating to this Agreement, the Contractor shall contact the custodian of public records at: Town Clerk, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, townclerk@lakeparkflorida.gov.
3. Contractor hereby affirms and ratifies the terms, pricing, and conditions of the Agreement with the City of West Palm Beach and agrees to provide to the Town the same services based upon these same terms, conditions and pricing for the Stormwater Engineering Professional Services as are set forth in its agreement executed with City of West Palm Beach on April 30, 2021, a copy of which is attached hereto and incorporated herein.
4. The Town agrees to pay for the services to be provided by the Contractor based upon the same terms, pricing and conditions as set forth in the agreement with the City of West Palm Beach.

5. The terms, pricing, and conditions of the agreement with the City of West Palm Beach are hereby supplemented and incorporated into this Agreement, as follows:

The Contractor's mobilization costs shall be mutually agreed to by the parties and proportional to the individual scope of work for the mobilization necessary to perform the work for the Town. The mobilization costs shall be reflected in a written supplement to this Agreement which shall be attached hereto prior to its execution.

6. This Agreement shall be governed by the laws of the state of Florida. Venue for any cause of action arising out of this Agreement shall lie in the 15th Judicial District in and for Palm Beach County, Florida, for any state actions, and in the United States District Court for the Southern District of Florida for any federal actions.
7. Notices to the Contractor and Town be directed to the addresses reflected at the beginning of this Agreement.
8. If either party is required to initiate a legal action, including appeals to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have made and execute this Agreement as of the day and year last execute below.

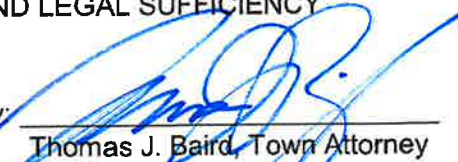
ATTEST:

TOWN OF LAKE PARK

By: 
Vivian Mendez, Town Clerk

By: 
Michael O'Rourke, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Thomas J. Baird, Town Attorney



STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this 16 day of February 2022 by Michael O'Rourke, Mayor of the Town of Lake Park, and who is personally known to me.



Vivian Menendez
Notary Public, State of Florida

WITNESSES:

Baxter & Woodman, Inc.:

By: *Jake Hurley*
Jake Hurley

Printed Name

By: *Rebecca Travis*
Its: Executive Vice President

Rebecca Travis
Printed

Kristen Nguyen
Kristen Nguyen

Printed Name

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this 4th day of February 2022 by Rebecca Travis, as Executive Vice President of Baxter & Woodman, Inc. and who is personally known to me or has produced _____ as identification.

(NOTARY SEAL)



Lisa G Broz
Notary Public, State of Florida



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Continuing Professional Services Agreement General Engineering Services

Contract No. 26868

This Agreement is made by and between the

CITY OF WEST PALM BEACH, with an address of P.O. Box 3366, West Palm Beach, FL 33402-3366 (the "City") and

BAXTER AND WOODMAN, INC., an Illinois corporation authorized to do business in the State of Florida, with a principal address of 8678 Ridgefield Road, Crystal Lake, IL 60012, and Federal Tax ID # 36-2845242 (the "Consultant").

Proposal: Consultant submitted its Proposal dated October 9, 2019 (the "Proposal") in response to the Request for Qualifications No. 18-19-405 issued by the City (the "RFQ")

AREAS OF QUALIFICATION: Consultant is qualified to provide services in the following areas:

- 105 **Storm Sewer** √ High Cost Threshold
including but not limited to stormwater management, erosion control, planning, modeling, replacement (open-cut, directional drill, jack & bore, etc.), rehabilitation, and low impact development
- 106 **Water Distribution, Sewer Collection System, and Force Main** √ High Cost Threshold
including but not limited to design, planning, modeling, condition assessment of various pipe materials (CIP, RCP, PCCP, etc), replacement (open-cut, directional drill, jack & bore, etc.), and rehabilitation
- 107 **Lift and Pump Station Design** √ High Cost Threshold
including but not limited to condition assessment, replacement, structural analysis, rehabilitation, and sea level rise hardening
- ~~108 **Surveying Services** √ High Cost Threshold
including Subsurface Utility Exploratory services~~
- 117 **Structural Systems** √ High Cost Threshold
including but not limited to design, planning, condition assessment, and rehabilitation
- 126 **Construction Management and Inspection** √ High Cost Threshold
project management, contract administration, material sampling and testing, inspection, compliance verification and other services deemed necessary by the City to ensure that individual projects are constructed in accordance with plans and specification

High cost threshold projects will have estimated construction costs of \$750,000 to \$4 Million, or studies/reports where the fee will not exceed \$500,000, as otherwise allowed by state law.

(collectively, the "Areas of Qualification")

SECTION 1 – SCOPE OF SERVICES

The Consultant agrees to provide to the City engineering and consulting professional services related to the Areas of Qualification listed above.

Professional Services will be rendered in response to periodic written work authorizations issued by the City on an as-needed basis, in accordance with Section 1.10 of this Agreement. Each work authorization will be subject to scope definition and fee negotiation at the established hourly rates. This shall be a continuing services agreement in accordance with Sec. 287.055, Florida Statutes. No assignment, minimum amount of professional service or compensation is guaranteed under this Agreement.

1.1 Phases of Professional Services

The services provided under this Agreement ("**Professional Services**") intended to be compensated by the Fees shall be categorized into the following phases of service, as applicable:

1. Pre-Design Analysis (or Planning/Study/Report) Phase
2. Preliminary Design Phase and Estimated Construction Costs
3. Final Design and Construction Documents Phase and Estimated Construction Costs
4. Permitting Phase
5. Bidding and Negotiation Phase
6. Construction Administration Phase

1.2 Pre-Design Analysis (or Planning/Study/Report) Phase

1.2.1 Scope. If the scope of Professional Services includes pre-design analysis or preparation of planning/study/report, unless otherwise provided in the applicable work authorization, the Consultant shall: i) Consult with the City regarding the requirements and budget allocations for the scope of services/Project and review available data; ii) Advise the City as to the necessity of any additional services from other technical professionals; iii) Provide analyses of the City's needs, surveys, site evaluations, environmental assessments, utility locations and comparative studies of solutions; and iv) Provide a general economic analysis of the requirements applicable to various alternatives; and identify any areas of the task that can be properly value-engineered to produce a savings in the Project construction cost.

1.2.2. Deliverables:

(a) *If the scope of Professional Services includes design services:*

- i. Prepare conceptual design criteria with appropriate sketches or exhibits, and identify in a clear manner the considerations involved and the alternative solutions available, as well as Consultant's recommendations (the "Pre-Design Analysis"). The Pre-Design Analysis shall be accompanied by Consultant's preliminary estimate of total construction costs for the Project.

(b) *If the scope of Professional Services includes a Study or Report:* Prepare a report which report shall identify in a clear manner the issue and considerations involved; Consultant's findings; the alternative solutions available, estimated costs, as well as Consultant's recommendations; and shall include appropriate exhibits (the "Study Report").

1.2.3. Presentations. If requested by City, Consultant shall attend meeting(s) with City Commissioners and/or City administration and may be asked to prepare and make presentation of the Study Report or Pre-Design Analysis.

1.3 Preliminary Design Phase

1.3.1 Scope. If the scope of Professional Services includes Preliminary Design, unless otherwise provided in the appropriate work authorization, Consultant shall address City's comments to the Pre-Design

Analysis, and shall prepare the preliminary design package. The preliminary design package shall include the following:

- (a) preliminary design drawings (20-30%), including design criteria and sketches or exhibits, including elevations, sections, site plan and additional renderings, showing the scale and relationship of project components.
- (b) outline of technical specifications.
- (c) Estimated Construction Cost, in accordance with Section 5.
- (d) Location map exhibits and renderings
- (e) Survey and existing utilities as-builts
- (f) Utilities coordination documentations
- (g) Environmental documents (if applicable)

(the "Preliminary Design Package").

1.3.2. Deliverable: The Preliminary Design Package for review and comment by the City.

1.3.3. Outreach. If requested, Consultant shall assist the City with any public communication/information program during this phase or any other phase of the project, including neighborhood presentations. Such assistance shall include the development of presentation material and attendance at public meetings.

1.3.4. Presentations. If requested by City, Consultant shall attend meeting(s) with City administration and/or City Commission and may be asked to prepare and make presentation of the Preliminary Design Package and Estimated Construction Cost.

1.4 Final Design – Construction Documents Phase

1.4.1. Scope. If the scope of Professional Services includes design development of construction documents, unless otherwise provided in the applicable work authorization, then on the basis of the accepted Preliminary Design Package and Estimated Construction Cost of the project, the Consultant shall prepare, for attachment to the forthcoming construction contract, final construction drawings identifying and describing the scope, extent and character of the work to be furnished and performed by contractor(s), which comply with all applicable building codes, laws and regulations (the "Final Drawings") and technical specifications for construction of the Project (the "Technical Specifications") at 60%, 90% and 100% completion. The Specifications are to be prepared in conformance with the sixteen division format provided by the Construction Specifications Institute. The Technical specifications shall include a Measurement section for the bid items.

1.4.2. Schedule of bid items. Prepare, for review and acceptance by the City, a proposed schedule of bid items.

1.4.3. Estimated Construction Cost. In accordance with Section 5, modify the Estimated Construction Cost of the project necessitated by the Construction Drawings and Specifications. In the event that the Estimated Construction Cost of the Project, when combined with the total Professional Services Fee and costs; plus any Construction Contingency or allowances established by the City, exceeds the total amount budgeted for the project as established by the City, then the Consultant shall revise and/or redesign the documents to bring the designs back within the budgeted amount, unless the City provides written approval that the Estimated Construction Cost exceeds the project budget. If the reason that the Estimated Construction Cost exceeds the budget is reasonably foreseeable at the time of performing the Professional Services, Consultant shall provide written notification identifying the specific reason to the City immediately upon Consultant determination that the Estimated Construction Cost may exceed the project budget, and in such case, shall await further direction from the City before proceeding further with the Professional Services. If the reason that the Estimated Construction Cost exceeds the budget was reasonably foreseeable at the time of performing the Professional Services, and the Consultant does not notify the City and obtain written approval from the City that the Estimated Construction Cost exceeds the project budget, Consultant shall revise and/or redesign the documents at its own cost and expense to bring the designs back within the budgeted amount.

1.4.3. Deliverables:

- (a) 60% Construction Drawings, Estimated Construction Cost and draft Technical Specifications in editable electronic format (docx,xls, dwg, and .pdf) for the review and comments of the City;
- (b) 90% Construction Drawings, Estimated Construction Cost and draft Technical Specifications in editable electronic format (docx,xls, dwg, and .pdf) for the review and comments of the City;
- (c) 100% Construction Drawings, Estimated Construction Cost and draft Technical Specifications in editable electronic format (docx,xls, dwg, and .pdf) for the review and comments of the City;
- (d) Final signed and sealed sets of final Construction Drawings, Technical Specifications and Estimated Construction Cost in electronic format (the "Construction Drawings and Technical Specifications") along with all supporting calculations; and any associated documents;
- (e) Schedule of bid items;
- (f) Estimated Construction Costs within project budget, unless otherwise accepted in writing by the City.

1.5 Permitting Phase

1.5.1 Scope. *If the scope of Professional Services includes permitting, unless otherwise provided in the specific work authorization, then in consultation with the City and on the basis of the Construction Drawings and Technical Specifications and Estimated Construction Cost of the project, Consultant shall prepare all necessary permit applications for submission with the Construction Drawings and Technical Specifications to the regulatory agencies for appropriate permits or other approvals. Consultant shall provide technical criteria, written descriptions and design data for the City's and Consultant's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the project. Consultant shall respond to any comments or requests for information from permitting authorities, and assist the City in consultations with appropriate authorities.*

1.5.2. Permits. In the event that the Construction Drawings and Technical Specifications are not granted the necessary or appropriate permits or other approvals from the appropriate regulatory agencies due to design issues, Consultant shall revise and/or redesign the documents at its own cost and expense to ensure the necessary permits and approvals are granted.

1.5.3. Permit Fees. Permit applications fees shall be determined by Consultant and paid by the City.

1.6 Construction Bidding and Negotiation Phase

1.6.1 Scope. *If the scope of Professional Services includes the Construction Bidding and Negotiation Phase, unless otherwise provided in the specific work authorization, then in consultation with City and on the basis of the Construction Drawings and Technical Specifications, Consultant shall review price tabulation sheets and assist the City in evaluating bids or proposals and consult with and advise the City as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) for those portions of the work as to which such acceptability is required by the procurement documents. Consultant will identify any areas of the Project that may be properly value-engineered to produce a savings in the construction cost. Consultant may be required to assist the City's Procurement Division in the preparation of addenda or written clarifications of additional instructions, to interpret, clarify or expand the procurement documents.*

1.6.2. Bidding assistance if requested. Only if requested as part of the specific work authorization, Consultant may be required to:

- (a) Participate in any pre-bid conferences or attend the bid opening;
- (b) Assist the City in negotiating proposals for each separate prime contract for construction, materials, equipment and services.

1.7 Construction Administration Phase

1.7.1 Scope. *If the scope of Professional Services includes the Construction Administration Phase, unless otherwise provided in the specific work authorization, Consultant shall consult with and advise the City and act as Owner's representative on the Project. Consultant will have limited authority to act on behalf of the City as specifically provided in this Agreement.*

- (a) *Site visits.* Consultant shall conduct site visits in accordance with Section 1.7.2, herein.
- (b) *Meetings.* Consultant shall conduct weekly meetings with the City and contractor(s). Consultant shall be responsible for preparing weekly meeting minutes and distributing them to all in attendance.
- (c) *Interpretations.* Consultant shall issue necessary interpretations and clarifications of the Construction Drawings and Technical Specifications and may issue additional instructions, by means of drawings, minor change orders or otherwise, necessary to illustrate changes in the work. Change orders shall comply with Section 1.7.3 below.
- (d) *Shop drawings; Samples.* Consultant shall timely review and approve or take other appropriate action with respect to shop drawings, samples, the acceptability of substitute materials and equipment proposed by contractor(s), and other data that the contractor(s) are required to submit to ascertain conformance to the Construction Drawings and Technical Specifications. Consultant shall complete its review of submittals, shop drawings, samples and other data shall be completed so as not to delay the progression of the work or within fourteen (14) calendar days of receipt. The City shall be entitled to rely upon the approval of Consultant that the shop drawings, product data, and samples approved by Consultant conform with the Technical Specifications and design specified in the Construction Drawings, as may be amended. Such reviews and approvals or other action shall not extend to the means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.
- (e) *Testing.* Consultant shall be obliged, in its role as the representative of the City on the project, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing and approvals as required by laws, rules, regulations, ordinances, codes, orders or the contract documents to determine that the work complies with the requirements of, and that the results certified indicate compliance with the Technical Specifications.
- (f) *Review of payment applications.* Consultant shall review of applications for payment and the accompanying data and schedules, Consultant shall determine the amounts owing to contractor(s) and recommend in writing payments to 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 Consultant's knowledge, information and belief, the quality of such work is in accordance with the Construction Drawings and Technical Specifications subject to (1) an evaluation of such work as a functioning whole prior to or upon substantial completion; (2) the results of any subsequent tests called for in the contract documents and (3) any other qualification reasonably stated in the recommendation(s). With regard to unit price work, Consultant's recommendations of payment shall include final determinations of quantities and classifications of such work subject to any subsequent adjustments allowed by the Construction Drawings and Technical Specifications or terms and conditions of the

construction contract for the Project.

- (g) *Documentation review.* Consultant shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates and inspection, tests and approvals, which will be assembled by contractor(s) in accordance with the construction contract. Such review shall be limited to a determination by Consultant that the content of said documents and instruments complies with the construction contract. In the case of certificates of inspection, tests and approvals, such review shall be limited to a determination that the results certified indicate compliance with the construction contract. Consultant shall thereafter transmit said documents and instruments to the City with written comments and, if applicable, recommendations regarding same, prior to determination of substantial completion.
- (h) *Substantial Completion Inspection.* Consultant shall conduct substantial completion inspection(s) to develop the "punchlist" and to determine if the work is substantially complete; such inspection to be scheduled within three (3) days of notice of substantial completion. Said punch list shall be prepared and signed by Consultant and the City and delivered to contractor not later than three (3) calendar days after the walkthrough. If necessary, Consultant shall assist in any mediation between City and contractor to develop an agreed punch list.
- (i) *Final Inspection.* Prior to final inspection, Consultant shall prepare and deliver for the final approval and written acceptance of the City "as built" drawings in signed and sealed format acceptable to the City (latest AutoCAD Release) on State Plane Coordinates. Consultant shall conduct a final inspection to determine if the completed work is in compliance with the punch list, "as-built" drawings" and the Construction Drawings, Technical Specifications, and construction contract documents. Within three (3) business days following such determination of compliance by Consultant, Consultant shall recommend in writing final payment to contractor(s) and shall give written notice to City and contractor(s) that the work is acceptable, subject to any conditions expressed in such recommendation.

1.7.2 *Site visits.* Consultant shall visit the construction site at intervals appropriate to the various stages of construction as Consultant deems necessary or as the City requests in order to enable Consultant to observe as an experienced and qualified design professional the progress and quality of the various aspects of contractor(s)' work. Based on information obtained during such visits and on such observations, Consultant shall advise City whether (i) the work is proceeding in accordance with the Construction Drawings and Technical Specifications, and (ii) the integrity of the design concepts have been implemented and preserved by the contractor(s). Consultant shall keep the City informed of the progress of the work in the manner and frequency requested by the City. During such visits and on the basis of such observations, Consultant may disapprove of or reject contractor(s)' work while it is in progress if Consultant believes that such work will produce a completed project that conforms generally to the contract documents or that it will prejudice the integrity of the design of the project as reflected in the Construction Drawings and Technical Specifications. Consultant shall notify the City within twenty-four (24) hours of the discovery of such conditions that stoppage of the work may be necessary to insure the proper execution of the Construction Drawings and Technical Specifications or to protect the public and/or property. Consultant shall sign any Stop Work Notice issued by the City. Consultant shall also have authority to reject all work, materials and equipment which do not conform to the Construction Drawings and Technical Specifications and to decide questions raised by contractor which arise in the execution of the work.

1.7.3 *Change orders.* Consultant shall prepare work change directives and change orders as required or requested by the City. Consultant will provide a response to the contractor and City with respect to a request for change order within a reasonable amount of time after receipt of contractor's notice and all necessary backup information required by Consultant to formulate a response. Consultant will have authority to make minor changes in the work which: (1) do not result in extra cost; and (2) do not extend the timeline for completion of the project, and (3) are not inconsistent with the purpose of the work. Consultant is not authorized to bind the City to changes in contract price or time.

1.7.4. Contractor claims. Consultant will make decisions in writing on all claims of the contractor(s), and on all other matters relating to the execution and progress of the work or the interpretation of the Construction Drawings and Technical Specifications and contract documents. All such decisions of Consultant shall be final. In the event of any unresolved dispute between City and its contractor(s), Consultant may mediate a meeting with City and contractor(s) to resolve the dispute. Notwithstanding the foregoing, Consultant will not be an arbitrator of disputes between City and its contractor(s).

1.7.5 No contractor supervision. Consultant will not, either during site visits or as a result of observations of contractor(s)' work in progress, supervise, direct or have control over contractor(s)' work. Nor shall Consultant have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions incident to the work of contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work. Accordingly, it is understood that Consultant can neither guarantee the performance of the construction contracts by contractor(s) nor assume responsibility for contractor(s)' failure to furnish and perform their work in accordance with the contract documents. Consultant shall not be required to make any examination to ascertain how or for what purpose any contractor has used the monies paid on account of the contract price, or to determine that title to any of the work, materials or equipment has passed to City free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between City and contractor that might affect the amount that should be paid. The limitations in this section shall not limit the responsibility of Consultant otherwise set forth in this Agreement.

Consultant is NOT authorized to do the following:

- a. Expedite the work for the contractor(s).
- b. Advise the contractor(s) on building techniques or scheduling.
- c. Get involved in disputes or problems between contractor(s) and subcontractor(s).

1.7.6 Deliverables.

- (a) Weekly project meeting minutes;
- (b) Recommendations regarding payment applications;
- (c) Transmittal of maintenance and operating instructions, schedules, guarantees, bonds and certificates and inspection, tests and approvals (assembled by contractor(s)) with written comments and, if applicable, recommendations regarding same;
- (d) Punch list of items to be completed by contractor after substantial completion;
- (e) "As built" drawings in signed and sealed hard copy and an electronic format acceptable to the City (latest AutoCAD Release) on State Plane Coordinates;
- (f) Recommendation of final payment to the contractor(s) and written notice to City that the work is complete and reasonably conforms with the Construction Drawings and Technical Specifications.

1.7.7. Presentation. If requested by City, Consultant shall attend additional City meeting(s) and may be asked to make presentation of the project status or any issues or concerns.

1.8 Requirement for Drawings and Plans

Unless otherwise set forth in the scope of services, plans shall be based on the North American Datum of 1983, 1180 Adjustment and the North American Vertical Datum of 1988. All drawings and plans shall be accurate, legible, complete in design, drawn to scale, and suitable for bidding purposes.

1.9 Non-Exclusive

This is a non-exclusive Agreement and the City may secure similar or identical services from other professionals.

1.10 Work Authorizations

1.10.1 No Guarantee. Tasks or assignments will be issued by work authorization. No specific assignment or work authorization nor minimum amount of professional services or compensation will be guaranteed under this Agreement. The award of a contract does not guarantee that the Consultant will receive any assignments in any given year. There is no representation that the type or value of work will be evenly distributed.

1.10.2 Limitations. No work authorization issued under this contract will be valid if the estimated construction cost of the specific project is reasonable estimated to exceed \$4 million. No work authorization issued under this contract will be valid if the specific project is reasonably estimated to be completed after the expiration of this Agreement.

1.10.3 Work Authorization Terms. For each work authorization to be issued under this Agreement, the City shall request Consultant to develop for review by the City:

- (i) a scope of services in accordance with the applicable phases of Professional Services described in Section 1 of this Agreement. Consultant shall describe the Professional Services utilizing the categories established in Section 1 of this Agreement;
- (ii) a detailed estimate of fees and costs based on the hourly rates established in this Agreement;
- (iii) a task/deliverable schedule; and
- (iv) a payment schedule based on deliverables

The City and Consultant may negotiate scope definition, schedule and fees (at the agreed hourly rates) for each work authorization. Upon mutual agreement of the scope of services, fees and costs, task/deliverable schedule and payment schedule, a written work authorization for each task shall be executed by Consultant and City.

1.10.4. No Payment. City shall not be liable to pay for any Professional Services provided without a work authorization which was fully-executed in advance of the performance of Professional Services.

1.10.5 Work authorizations shall expire with the term of this Agreement. Tasks and assignments under work authorizations shall not extend beyond the Agreement expiration.

1.10.6 Rates. The hourly rates effective for each Work Authorization issued under this Agreement are attached as Exhibit A.

1.10.7 Fee Schedule. The fee to be paid by the City to Consultant, for all Professional Services of both Consultant and any of its subcontractors ("Fee") and administrative reimbursements in connection with a work authorization, shall be set forth in a detailed Fee Schedule attached to each specific work authorization issued under this Agreement. The Fee Schedule shall detail estimated hours by position category for each phase of Professional Services along with the hourly rates, based on the rates set forth in Exhibit A. All reimbursable expenses and costs, including administrative expenses, documents production, travel, etc., shall be detailed in the Fee schedule. Fees for work authorizations may be established with an upper limit or "not to exceed" amount and supported by a detailed fee schedule based on the hourly rates attached in Exhibit A. In exceptional circumstances and with justification acceptable to the procurement official, a work authorization may be based upon a fixed (lump sum) provided it is based on the hourly rates attached in Exhibit A and the Consultant provided evidence to support that claim.

1.10.8 The Fee and Fee Schedule for each work authorization shall include all fees or payments that Consultant proposes to pay or make to its subcontractors/vendors under the work authorization.

1.10.9 Form. The form of work authorization acceptable to the City for Consultant's use is attached to this Agreement as Exhibit D.

SECTION 2 – COMPLETION SCHEDULE

2.1 Project Schedule

Consultant agrees to complete its Professional Services and provide the indicated deliverables in accordance with the schedule approved for each work authorization.

2.2 Delay

2.2.1. Consultant's Professional Services shall be timely performed in compliance with the Project schedule or as amended in a writing executed by both parties. If Consultant is delayed at any time in the progress of its Professional Services by any act, failure to act or neglect of the City, or any separate consultant or contractor hired directly by the City, or by occurrences beyond the control and without any fault or negligence of Consultant, Consultant shall provide to the City, within five (5) working days of the date the delay began, written notice of the delay. Provided Consultant has timely notified the City of such delay, the City shall amend the schedule in writing, for the time delay actually caused by such occurrence, as determined by the City in its sole discretion. This extension of time shall be Consultant's sole and exclusive remedy attributed to such delay.

2.2.2. Consultant acknowledges responsibility for any delay damages suffered by the City as a result of Consultant's negligent, reckless or intentional wrongful actions or inactions. In the event that the City suffers or reasonably believes that it will suffer actual delay damages as a result of Consultant aforesaid actions or inactions, the City, in its sole discretion, said discretion to be exercised reasonably and in good faith, shall have the right and be entitled to terminate this Agreement upon five (5) day's written notice and such termination shall not be construed to constitute a breach of this Agreement by the City.

SECTION 3 - PROFESSIONAL SERVICES FEE & EXPENSES

3.1 Rates.

Consultant's hourly rates for every position or level of profession or staff for whom time will be invoiced under this Agreement are attached as Exhibit A and incorporated into this Agreement. All such rates shall be effective for the term of this Agreement. Any adjustments for the renewal period are shown in Exhibit A and may not be adjusted later. The fixed hourly costs for all positions will be applicable to both in-house professional engineering services and professional engineering services at the Consultant firm's place of business.

3.2 Professional Service Fee.

3.2.1. Fee. The Fee for any work authorization shall be based on the hourly rates shown on the Fee Schedule. Each work authorization shall be supported by a Fee Schedule breakdown showing the hourly rates and estimated hours which support the Fee.

3.2.2. Expenses. The Fee and Fee Schedule shall include all administrative out-of-pocket expenses to be reimbursed under this Agreement.

3.2.3. Supporting Documents. Consultant shall maintain complete and orderly documentation underlying all of its invoiced out of pocket expenses, including copies of paid receipts, invoices, or other documentation acceptable to the City. Such documentation shall be sufficient to establish that the expenses were actually incurred and necessary in the performance of the Professional Services.

3.2.4. Mark-Up. Any out-of-pocket costs shall not be marked up more than three percent (3%).

3.2.5. Travel Expenses. Any agreed travel, per diem, mileage, meals, or lodging expenses, the cost of which are subject to the City's prior written approval, shall be paid in accordance with the rates and conditions established by the City's Travel Policy, a copy of which has been provided to Consultant, or the applicable law or ordinance.

3.2.6 Renewal Term Fee. Any increase to hourly rates for a term extension shall not exceed 5% over the original fee schedule under this Agreement.

3.3 Payment Schedule.

A Payment Schedule tied to the deliverables under the applicable work authorization, which payment schedule shall not be front-loaded, shall be attached to each work authorization.

3.4 Subcontracts.

Consultant may invoice for Professional Services related to the sub-contractual services at the established hourly rates in the Fee Schedule. Subcontractor fees shall be in accordance with the Fee Schedule and shall never exceed the comparative fee for the Consultant.

3.5 Invoices.

3.5.1 Each work authorization shall be invoiced separately.

3.5.2. Invoices must identify the PO number Work Authorization number and Contract Number.

3.5.3 Submit by email. Invoices shall be emailed to: wpbap@wpb.org.

And concurrently emailed to the designated City's Representative.

Alternatively, invoices may be mailed to: City of West Palm Beach Accounts Payable,
P.O. Box 3366
West Palm Beach, FL 33402-3366.

3.5.4 Invoices requesting reimbursement of expenses shall include copies of all documentation of the expenses, to the satisfaction of the City.

3.5.5 Invoices for upper limit type work authorizations shall identify the work authorization number and show the actual hours worked, person performing Professional Services, Professional Services performed and/or deliverable provided, hourly rate, and date(s) of service.

3.5.6 Invoices for lump sum type work authorizations shall identify the work authorization number and shall be accompanied by a status report briefly describing the activities and Professional Services performed under said work authorization during the billing period. The payment request amount shall be related to the percentage of services completed.

3.5.7 Invoices received from Consultant pursuant to this Agreement shall be reviewed and are subject to the prior approval of the City to determine if services have been rendered in conformity with the work authorization and Agreement.

3.6 Payment.

3.6.1 Electronic Deposit. The City will make payment by electronic deposit (ACH) based on the directions provided to the City from Consultant.

3.6.2. The Fee shall be paid in accordance with the Payment Schedule established for the work authorization and upon acceptance of deliverables satisfactory to the City and receipt of a proper invoice from Consultant.

3.6.3. Payment of Fees will be made in accordance with the Local Government Prompt Payment Act, Section 218.70, et al., Florida Statutes, as amended, which provides for prompt payment, interest

payments, and dispute resolution provided detailed invoices are submitted in compliance with the terms of this Agreement.

3.6.4. No payment made under this Agreement shall be conclusive evidence of the performance of this Agreement by Consultant, either wholly or in part, and no payment shall be construed to be an acceptance of or to relieve Consultant of liability for the defective, faulty or incomplete rendition of the Professional Services.

3.7 Final Invoice

In order for both parties to close their books and records, Consultant shall submit its final invoice for each work authorization no later than four (4) months after completion of all Professional Services under said work authorization. Consultant shall clearly indicate "Final Invoice" on its final invoice for each work authorization. Such indication shall certify to the City that all Services have been properly performed and all charges and costs owed in connection with the work authorization and this Agreement have been invoiced to the City under the appropriate work authorization. Any requests for reimbursement or fee payment under a work authorization, if not properly included on the final invoice or not submitted within four months of completion of Professional Services, are waived by Consultant.

SECTION 4 - TERM

4.1 Term.

4.1.1 This Agreement shall commence as of the date of full execution of this Agreement. This Agreement shall expire three (3) years from the date of full execution, subject to the renewal and termination provisions of this Agreement. The Agreement expiration date may be extended for up to two (2) additional years, upon the mutual option of the City and Consultant. Any term extension shall be evidenced by a formal written amendment to this Agreement, duly executed by both the City and Consultant. Any term extension shall be under the same terms and conditions of this Agreement, including the Fee Schedule, unless a fee adjustment for renewal is identified in Exhibit A or Sec. 3.2.6. All Work authorizations issued under this Agreement for Professional Services shall be completed prior to expiration of this Agreement.

4.1.2 Notwithstanding the foregoing, the terms of this Agreement shall continue in force until completion of the Professional Services related to any work authorization duly issued under this Agreement, unless terminated early by either party or pursuant to the termination provisions in this Agreement.

4.2 Surviving Provisions.

It is agreed that the indemnity provisions, insurance provisions, the right to audit and all covenants, agreements, and representations made in this Agreement or otherwise made in writing by Consultant, including but not limited to any representations made relating to disclosure or ownership of documents, shall survive the expiration or termination of this Agreement.

SECTION 6 - ESTIMATED CONSTRUCTION COSTS

5.1 Included In Estimated Construction Cost

The Estimated Construction Cost of a project shall include the total cost to City of all elements of the entire project designed and specified by Consultant; including an itemization of each of the following:

- a. Cost of construction including all labor, materials and equipment required; including but not limited to, an estimated statement of proposed hourly rates and labor costs by job classification; general conditions, bonds and insurance, etc.;
- b. Allowance for construction cost contingencies;
- c. Regulatory permit fees;

- d. Allowance for other necessary services, such as materials testing, to be provided by others for the City;
- e. Traffic Control, when applicable;
- f. Sheet and shoring, when applicable;
- g. By-pass plumbing, when applicable;
- h. Pressure Testing, when applicable;
- i. Video Taping Inspections, when applicable;
- j. Mobilization and De-mobilizations;

(the "Estimated Construction Cost")

5.2 Excluded In Estimated Construction Cost

The Estimated Construction Cost shall exclude Consultant's Fee.

5.3 City's Reliance; Adjustment to Estimated Construction Cost

Consultant hereby represents to the City that Consultant is aware that City is relying on the Estimated Construction Costs prepared by the Consultant. Consultant further represents that it has the necessary resources and expertise, including a cost analyst, to ensure that the bids received for the project will not exceed the Estimated Construction Costs determined by Consultant in the performance of its Professional Services under this Agreement by a factor of more than ten percent (10%) over and above the Estimated Construction Cost at the time that the construction procurement solicitation is advertised for the project, subject to unforeseeable, documented, changes in markets and costs. In the event that the bidding phase has not commenced within three (3) months after Consultant submits the Construction Drawings and Technical Specifications and Estimated Construction Cost of the project to the City, the Estimated Construction Cost of the project may be adjusted by Consultant to reflect any documented change in the general level of prices in the construction industry between the date of submission of the Estimated Construction Costs to the City and the date on which the construction procurement solicitation is ultimately advertised.

5.4 Inaccurate Estimated Construction Cost

In the event that a least two (2) responsive and responsible bids are received, and the lowest "best value" bid, as such term is used in the City of West Palm Beach Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), the Consultant shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the City may at its sole discretion, exercise any one or more of the following options: (1) Consultant shall be required to amend, at the sole cost and expense of Consultant, the Construction Drawings and Technical Specifications along with the Estimated Construction Cost, to enable the project to conform to a maximum of ten percent (10%) above the Estimated Construction Costs of the project and the City's project budget with such amendments subject to the written final acceptance and approval of the City; (2) Consultant shall be required to provide, at the sole cost and expense of Consultant, re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the City until the base bid of at least one "best value" bid falls within the factor of ten percent (10%) of the Estimated Construction Cost of the project; (3) City may grant approval of an increase in the Estimated Construction Cost of project; (4) City may abandon the project and terminate Consultant's work authorization and Services for the project; or (5) City may select as many deductive alternatives as may be necessary to bring the award within ten percent (10%) of the Estimated Construction Costs of the project. Notwithstanding the foregoing and anything to the contrary contained in this Agreement, it is expressly understood and agreed that the redesigning services required to keep a project within 10% of the Estimated Construction Cost shall not be considered additional services and Consultant agrees that it shall not seek compensation from the City for same.

SECTION 6 - MODIFICATIONS TO THE SCOPE

Notwithstanding the foregoing provisions, the City reserves the right to make changes to a project or the scope of Professional Services at any time, including alterations, reductions or additions thereto. Upon receipt by Consultant of City's notification of a contemplated change, Consultant shall in writing: (i) provide a detailed estimate for the increase or decrease in Consultant's Fee and other design costs that would result from the contemplated change; (ii) provide a detailed estimate for the increase or decrease in Estimated Construction Costs that would result from the contemplated change; (iii) notify the City of any estimated change in the completion date; and (iv) advise the City how the contemplated change shall affect the Consultant's ability to meet the completion dates or schedules. If the City so instructs in writing, Consultant shall suspend work on the portion of the scope of services affected by a contemplated change, pending the City's decision to proceed with the change. If the City elects to make the change, the parties shall execute a written amendment to this Agreement and Consultant shall not commence work on any such change until such amendment is signed by the parties. It is further acknowledged and agreed that changes to Deliverables, or revisions of studies, that do not increase or change the overall estimate of time under the schedule shall be considered mere substitution of work for scope of work ("Substituted Services") already included in the Fee. Substituted Services shall not in any circumstances be considered compensable as other expenses, and, to the extent that the event of Substituted Services causes an overall reduction in the amount of time for services considered in the Fee Schedule, such shall result in pro-rata reduction of the Fee.

SECTION 7 - REPRESENTATIONS OF THE CONSULTANT

7.1 Authority.

Consultant hereby represents to the City that it has full power and authority to enter into and fully perform its obligations under this Agreement without the need for any further corporate or governmental consents or approvals, and that the persons executing this Agreement are authorized to execute and deliver it.

7.2 Duly Licensed.

Consultant represents that it is duly licensed in Florida to perform the Professional Services under this Agreement and that it will continue to maintain all licenses and approvals required to conduct its business.

7.3 No Solicitation.

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, 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 Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach or violation of this provision by Consultant, the City shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the Fee, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

7.4 Convicted Vendor List.

Consultant represents that the execution of this Agreement will not violate Section 287.133, Florida Statutes and certifies that Consultant and any parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives, and any sub-consultants have not been placed on the Convicted Vendor List maintained by the State of Florida within 36 months prior to the submittal of the Proposal to under this RFQ. Violation of this section may result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities.

7.5 Discriminatory Vendor List.

In accordance with Fla. Stat. Sec. 287.134, Consultant represents that it has never been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services. Violation of this section may result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities.

7.6. Scrutinized Companies List.

Pursuant to Fla. Stat. Sec. 287.135, Consultant represents that Consultant is not on the Scrutinized Companies that Boycott Israel List, maintained by the State of Florida, and is not engaged in a boycott of Israel. Consultant further represents that it is not on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engages in business activities in Sudan or Cuba. Violation of this section may result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from City's competitive procurement activities.

7.7 E-Verify.

7.1.1 In compliance with Section 448.095, Fla. Stat., Consultant shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of new employees hired by Consultant during the term of this Agreement. Consultant shall require all subcontractors performing services under this Agreement to verify the employment eligibility of new employees hired by the subcontractor during the term of this Agreement. Consultant shall require each of its subcontractors to provide Consultant with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement.

7.7.2 The City, Consultant, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Consultant acknowledges that upon termination of this Agreement by City for a violation of this section by Consultant, Consultant may not be awarded a public contract for at least one (1) year. Consultant further acknowledges that Consultant is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section.

7.7.3 Consultant or its subcontractor shall insert in any subcontracts the clauses set forth in this section and shall require subcontractors to include these clauses in any lower tier subcontracts.

7.8 ADA Compliance.

Consultant shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA), including all applicable regulations, guidelines, and standards.

7.8 Standard of Care.

The standard of care for all Professional Services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of Consultant's profession practicing under similar circumstances.

7.9 Standard of Conduct.

The implied covenant of good faith and fair dealing under Florida law is expressly adopted.

7.10 Compliance with Laws.

In the conduct of Professional Services under this Agreement, Consultant shall comply in all material respects with all applicable federal and state laws and regulations and all applicable County and City ordinances and regulations.

7.11 Design and Constructability

Consultant hereby represents to City that where Professional Services includes development of Construction Drawings and Technical Specifications, such project: (i) is and shall be designed with no material defects in design, determined in accordance with sound architectural and engineering principles, as applicable, and generally accepted industry standards; (ii) is and shall be designed in accordance with generally accepted architectural and engineering standards, as applicable, and (iii) is constructible. Without waiver of City's other rights and remedies, City may require Consultant to perform again, at Consultant's sole cost and expense, any design services which were not performed in accordance with the requirements and

standards set forth in this Agreement. Consultant hereby waives any claims which it may have or assert against the City with respect to this section, except and unless failure of Consultant to perform, in whole or in part, is due to the action or inaction of the City. Without limiting any other remedy available to City, the Consultant shall furnish at its own expense any redesign or revisions to the Construction Documents and Technical Specifications necessary to correct any material errors, omissions, failures or deficiencies in such documents, and shall, at its sole cost and expense, correct any work performed in accordance with deficient documents. The City's review or approval of, or payment for, any Professional Services or deliverables under this Agreement shall not be construed as a waiver of any rights under this Agreement or any cause of action arising out of performance under this Agreement. This section shall survive the expiration or termination of this Agreement.

7.12 Ethics Provisions; No Conflicts of Interest.

7.12.1 Consultant represents that it has not given or accepted a kickback in relation to this Agreement and has not solicited this Agreement by payment or acceptance of a gratuity or offer of employment.

7.12.2 Consultant represents that it has not solicited this Agreement by payment of a gift or gratuity or offer of employment to any official, employee of the City or any City agency or selection committee.

7.12.3 Consultant represents that it does not and will not employ, directly or indirectly, the mayor, members of the City commission or any official, department director, head of any City agency, member of any board, committee or agency of the City, or any other City employee without prior approval.

7.12.4 Consultant represents that it does not employ, directly or indirectly, any official of the City. Consultant represents that it does not employ, directly or indirectly, any employee or member of any board, committee or agency of the City who, alone or together with his household members, own at least five percent (5%) of the total assets and/or common stock of Consultant.

7.12.5 Consultant represents that it has not knowingly given, directly or indirectly, any gift with a value greater than \$100 in the aggregate in any calendar year to the mayor, members of the City commission, any department director or head of any City agency, any employee of the City or any City agency, or any member of a board that provides regulation, oversight, management or policy-setting recommendations regarding the Consultant or its business.

7.12.6 Consultant represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance under this Agreement. The Consultant further represents that no person having any such interest shall be employed or engaged by it to provide the Professional Services.

7.12.7 Consultant, its officers, personnel, subsidiaries and subcontractors shall not have or hold any continuing or frequently recurring employment, contractual relationship, business association or other circumstance which may influence or appear to influence Consultant's exercise of judgment or quality of the Professional Services being provided under this Agreement. Consultant, its officers, personnel, subsidiaries and subcontractors shall not perform consulting work for any third party that would in any way be in conflict with the Professional Services to be provided to the City under this Agreement.

7.12.8 Consultant, its officers, personnel, subsidiaries and subcontractors shall not, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding unless compelled by court process. Further, Consultant agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City or in connection with any pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

7.12.9 Consultant shall promptly notify the City in writing by certified mail of all potential conflicts of interest or any event described in this Section. Said notification shall identify the prospective business interest

or circumstance and the nature of work that Consultant intends to undertake and shall request the opinion of the City as to whether such association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by Consultant. The City agrees to notify Consultant by certified mail of its opinion within thirty (30) calendar days of receipt of the said notification and request for opinion. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by Consultant, the City shall so state in its opinion and Consultant may, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by Consultant under this Agreement.

7.12.10 In the event Consultant is permitted to utilize subcontractors to perform any services required by this Agreement, Consultant agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

7.13 Lobbying Certification.

Consultant certifies to the best of its knowledge and belief that no Federal or State grant funds or other resources received in connection with this Agreement will be used directly or indirectly to influence legislation or any other official action by a Member of Congress, a member of the Florida Legislature or any state agency.

7.14 Truth in Negotiation Statement

Signature of this Agreement by Consultant serves as the execution of a truth-in-negotiation certificate certifying that the compensation and hourly rates and other expenses or costs to be compensated under this Agreement are accurate, complete and current at the time of contracting. The fees and expenses payable under the contract shall be adjusted to exclude any significant sums should the City determine that the fees and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to sub-consultants or sub-contractors. Any such contract adjustments must be made within one year following the expiration or termination of this Agreement.

7.15 Financial Capability

Consultant certifies that Consultant has not filed for bankruptcy in the past five (5) years and is financially able to provide Professional Services under this Agreement. Consultant further represents that it has no obligation or indebtedness that would impair its ability to meet the completion dates or schedules to be established by the Project Schedule and this Agreement.

7.16 No Felony or Fraud

Consultant certifies that neither Consultant nor any of Consultant's principals have been indicted for or convicted of a felony or fraud.

SECTION 8 – RESPONSIBILITIES OF THE CITY

8.1 Designation of Representative

The City agrees to designate an individual to act as the City's representative with respect to the Professional Services to be rendered under this Agreement and any specific work authorization(s), provided that such representative shall not have the authority to amend or modify this Agreement. Such person shall have authority to transmit instructions, receive information and define the policies and decisions of the City with respect to Consultant's Professional Services.

8.2 Specification of City Requirements

The City agrees to provide information as to the City's requirements for the task or assignment under a work authorization, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability and budgetary limitations.

8.3 Items to be furnished upon the Consultant's Request

The designated representative of the City will use reasonable efforts to provide to Consultant, upon Consultant's request, the following information, along with previous reports or studies and any other data relative to design or construction of a project. The City makes no representation that any such data or

documents provided by the City are accurate or reliable.

1. Data prepared by others relevant to the project;
2. Appropriate professional interpretations of data prepared by others relevant to the project;
3. Environmental assessment and impact statements;
4. Property, boundary, easement, right-of-way, topographic and utility surveys;
5. Property descriptions; and
6. Zoning, deed and other land use restrictions

8.4 Access to Property

The City agrees to arrange for access to and make all provisions for Consultant to enter City property or facilities as required for Consultant to perform services under this Agreement.

8.5 Attendance at Meetings

The City agrees that a representative of the City will attend regularly scheduled Project progress meetings, when requested, held at the City or Consultant's local office, as well as substantial completion inspections and final inspections. Consultant's Project Manager, or a key team member, will attend all regularly scheduled Project progress meetings at the dates and times established.

SECTION 9 – DOCUMENTS

9.1 Ownership of Documents.

All plans, drawings, calculation, construction documents, technical specifications, sketches, photographs, videos, illustrations, tracings, PowerPoint presentations, specifications, maps, computer files and/or studies or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, regardless of form or format, will be considered works made for hire and, upon payment by the City of the Fee for same, will become the exclusive property of the City without restriction or limitation on their use and will be made available, upon request, to the City upon request and/or upon completion or termination of this Agreement. City shall not be required to pay any additional charges for the City's documents and records. Documents can be provided to the City electronically. Upon delivery to the City of said document(s), the City will become the custodian thereof in accordance with Chapter 119, Florida Statutes. Consultant will not copyright any material and products or patent any invention developed under this Agreement. Consultant specifically waives and releases all rights which Consultant may have in the materials, products or invention pursuant to 17 U.S.C. §§106A and 113(d). Consultant acknowledges and affirms that pursuant to 17 U.S.C. §106A(e) such waiver and release shall be effective as to any and all uses foreseeable and unforeseeable for which such materials, products or invention might be subject. Consultant waives and assigns to City all copyrights under 17 U.S.C. §101, et seq., and all other rights in the materials, products, invention and any work produced. Any reuse of Consultant's prepared documents by the City, except for the specific purpose intended under this Agreement, will be at City's sole risk and without liability or legal exposure to Consultant or its sub-consultants.

9.2 Obligation to Furnish Documents to the City

Consultant shall deliver to the City for approval and acceptance, and before being eligible for final payment of any amounts due under this Agreement, all documents and materials prepared for the City in connection with this Agreement. All such documents and records shall be provided within a reasonable time at no additional cost. Such documents may be provided electronically.

9.3 Consultant's Records

Notwithstanding any other provision in this Section, Consultant shall be entitled to retain a copy of all plans, drawings, calculation, construction documents, technical specifications, sketches, photographs, videos, illustrations, tracings, PowerPoint presentations, specifications, maps, computer files and/or studies or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, for Consultant's records only as is necessary for Consultant to document its Professional Services. Consultant acknowledges that plans, drawings, documents, and records related to the physical security of City facilities or security systems are exempt or confidential records and shall not be disclosed by

Consultant, except as authorized by law and specifically authorized by City.

SECTION 10 – EQUAL OPPORTUNITY PROGRAMS

10.1 MWBE Subcontractor Commitment. Check if applicable

Consultant shall comply with the Minority and Women-Owned Business Enterprise Ordinance set forth in Chapter 66 of the Code of Ordinances of the City of West Palm Beach, which is incorporated herein by this reference.

10.1.1 Consultant is a City-certified MWBE.

OR

10.1.2 A MWBE subcontractor requirement is set at 9.92% of the aggregate value of this Agreement shall be met with African-American owned MWBE firm(s). Failure to meet the MWBE requirement may be deemed a material breach of this Agreement and may be considered by the City as a past performance factor in future procurements. MWBE goals must be met by MWBE contractor(s) certified by the City. MWBE subcontractors must be utilized to perform a commercially useful function. Consultant shall maintain all relevant records and information necessary to document compliance with the MWBE Ordinance and shall allow the City to inspect and audit such records.

10.2 Small Business Commitment. Check if applicable

Consultant shall comply with the City's Small Business Ordinance set forth in Chapter 66 of the Code of Ordinances of the City of West Palm Beach, which is incorporated herein by this reference.

The Small Business goal established for this Agreement is 15% of the aggregate value of this Agreement.

Failure to meet the SB commitment may be deemed a material breach of this Agreement and may be considered by the City as a past performance factor in future procurements. SB goals may not be met by subcontractors that do not perform a commercially useful function or that are not qualified or certified to provide the services. Consultant shall maintain all relevant records and information necessary to document compliance with the Small Business Ordinance and shall allow the City to inspect and audit such records.

SECTION 11 – STANDARD TERMS AND CONDITIONS

11.1 Consultants Competitive Negotiation Act

The parties confirm that the procurement of the Professional Services under this Agreement was the subject of the competitive selection and negotiation processes mandated by Section 287.055, Florida Statutes, unless specifically exempted therefrom.

11.2 Personnel; Staffing; Sub-contractors

11.2.1 Independent Contractor Relationship. All persons employed by Consultant and engaged in any of the work or Professional Services performed by Consultant pursuant to this Agreement shall at all times be subject to Consultant's sole direction, supervision, and control. Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects Consultant's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees or agents of the City, regardless of whether the Consultant's personnel work on-site. Consultant does not have the power or authority to bind the City in any promise, agreement or representation other than as may be specifically provided for in this Agreement. Consultant shall be responsible to the City for all Professional Services or work performed by Consultant or any person or firm engaged as a sub-consultant or subcontractor to perform work in fulfillment of this Agreement.

11.2.2 Personnel. Consultant represents that its project manager and all key staff identified in Consultant's Proposal shall remain assigned to the Project, unless otherwise specifically agreed by the City. All personnel engaged in performing the Professional Services shall be fully qualified and, if required, licensed or permitted under all applicable federal, state and local laws and regulations to perform such services. Consultant specifically acknowledges that its employees will not be covered by the City's workers' compensation insurance and Consultant will be solely and exclusively responsible for payment of all federal and state income, social security, unemployment and disability taxes due in respect of all compensation and/or other consideration paid by the City to Consultant under this Agreement.

11.2.3 Non-Discrimination by Consultant. The Consultant represents that all of its employees and applicants for employment are treated equally without regard to race, color, religion, sex, sexual orientation, gender identity or expression, genetic information, national origin, age, disability, familial status, or marital status, and that in providing services, Consultant does not discriminate with regard to any of the aforementioned factors.

11.2.4 Prohibited Persons. Neither Consultant nor any of its respective officers, directors, shareholders, partners, members or affiliates (including without limitation indirect holders of equity interests in Consultant) is or will be an entity or person subject to the provisions of Executive Order 13224, as amended, or is subject to sanctions of the United States government or is in violation of any federal, state, municipal or local laws, statutes, codes, ordinances, orders, decrees, rules or regulations relating to terrorism or money laundering, or who is otherwise affiliated with any entity or person listed above.

11.2.5 Selection of Sub-Contractors. Consultant shall obtain the prior written approval of the City as to each proposed subcontractor and the City reserves the right to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. If it becomes necessary to replace a particular subcontractor to complete its part of the services, Consultant shall promptly do so, subject to prior written approval and acceptance of the new subcontractor by the City, which approval shall not be unreasonably withheld.

11.3 State Taxes.

Consultant understands that in performing the Professional Services for the City, Consultant is not exempt from paying sales tax to Consultant's suppliers for materials required for Consultant to perform under this Agreement. Consultant shall not be authorized to use the City's tax exemption number for purchasing supplies or materials.

11.4 Availability of Funds

This Agreement is expressly conditioned upon the availability of funds lawfully appropriated and available for the purposes set out herein as determined in the sole discretion of the City. By law, the City shall not expend any money under any contract in excess of the amounts budgeted for such expenditure during the specific fiscal year. If funding for this Agreement is in multiple fiscal years, funds must be appropriated each year prior to costs being incurred. Nothing in this paragraph shall prevent the making of agreements with a term of more than one year, but any agreement so made shall be executory only for the value of the Professional Services to be rendered or paid for in succeeding fiscal years. In the event funds to finance this Agreement become unavailable, the City may terminate this Agreement upon no less than twenty-four (24) hours' notice to Consultant. The City shall be the sole and final authority as to the availability of funds.

11.5 Right to Audit.

Consultant shall maintain adequate records for the Professional Services performed under this Agreement, including (a) timesheets kept in a clear and orderly fashion used to substantiate the monthly invoices in accordance with generally accepted accounting principles, and (b) adequate records to justify all charges, expenses and costs in performing the Professional Services; and (c) copies of communications regarding the performance of its obligations under this Agreement, for five (5) years following completion of the Services, or conclusion of any litigation regarding this Agreement. The City shall have the right to audit Consultant's books and records, at the City's expense, upon prior notice, with regard to the Professional

Services provided to the City under this Agreement. Consultant shall allow the City or its representative to interview all current or former employees to discuss matters pertinent to this Agreement. If an audit inspection in accordance with this section discloses overpricing or overcharges (of any nature) by Consultant to the City in excess of one-half of one percent (.5%) of the total contract billings, (1) the reasonable costs of the City's Internal Audit department shall be reimbursed to the City by the Consultant and (2) a 15% penalty of the overpricing or overcharges shall be assessed. Any adjustments and/or payments which must be made as a result of the audit inspection, including any interest, audit costs and penalties shall be made by the Consultant within 45 days from presentation of City's findings to Consultant. Failure by Consultant to permit such audit shall be grounds for termination of this Agreement by the City.

11.6 Public Records Law

11.6.1 Consultant shall comply with Chapter 119, Florida Statutes, regarding public records. Consultant shall keep and maintain all documents, correspondence, reports, computer files, emails, plans, drawings, calculations, technical specifications, sketches, photographs, videos, illustrations, tracings, specifications, maps, etc., prepared in order to perform the services under this Agreement.

11.6.2 Consultant shall ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed. Records that are exempt or confidential and exempt from public records requirements may include plans, drawings and records related to the physical security of City buildings or security systems and shall not be disclosed by Consultant, except as authorized by law and specifically authorized by City.

11.6.3 A request to inspect or copy public records relating to this Agreement must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Consultant of the request, and the Consultant shall provide the records to the City or allow the records to be inspected or copied within a reasonable time at the cost that would not exceed the cost allowed by law. All records stored electronically must be provided to the City, upon request, in a format that is compatible with the information technology systems of the City. Failure of the Consultant to provide public records to the City within a reasonable time or allowable cost may be subject to penalties under Sec. 119.10, Fla. Stat., and may be cause for termination of the Contract by the City, in addition to any other remedies available under the Contract or by law.

11.6.4 Upon completion of the Agreement, Consultant shall transfer, at no cost, to the City all public records in possession of Consultant. Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

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, WHO IS THE CITY'S CUSTODIAN OF PUBLIC RECORDS, AT

**Office of the City Clerk
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401
561-822-1210
CityClerk@wpb.org**

11.7 Confidentiality

Consultant agrees that it will make no statements, press releases or publicity releases concerning this

Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the City and securing its consent in writing.

11.8 No Pledge

Consultant shall not pledge the City's credit or attempt to make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any other form of indebtedness.

11.9 Insurance.

11.9.1 Consultant shall purchase from and maintain, in a company or companies lawfully authorized to do business in Florida, such insurance as will protect the City from claims set forth below which may arise out of or result from performance under this Agreement by Consultant, or by a subcontractor of Consultant, or by anyone directly or indirectly employed by Consultant, or by anyone for whose acts Consultant may be liable.

11.9.2 Coverage shall be maintained without interruption from the effective date of this Agreement until date of final payment and termination of any coverage required to be maintained after final payment. Any liability coverage on claims made basis shall remain effective for five (5) years after final payment. If any of the required insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted along with the application for final payment.

11.9.3 The City shall be provided a minimum of thirty (30) days prior written notice of any adverse material change, including any reduction, non-renewal or cancellation of Contractor's required insurance coverage, or any increase in the Consultant's self-insurance retention.

11.9.4 Evidence of insurance, being a current ACORD certificate of insurance or its equivalent, executed by the insurer, or its agent or broker, evidencing that a policy of insurance and any required endorsements have been issued by the agent/broker shall be delivered to City prior to execution of this Agreement. The Certificate of Insurance shall be dated and show the name of the insured, the specific Project or work authorization by name, WA number and contract number, the name of the insurer, the number of the policy, its effective date, and its termination date.

11.9.5 Additional Insureds. All required insurance (except Worker's Compensation and Professional Liability) shall include an Additional Insured endorsement identifying "the City of West Palm, its commissioners, officers, employees and agents", as Additional Insureds. No costs shall be paid by the City for an additional Insured endorsement.

11.9.6 Required Coverage: Consultant shall maintain following liability coverage, in the limits specified:

Comprehensive General Liability: Not less than \$1,000,000.00 Combined Single Limit per occurrence and \$2,000,000 aggregate. May not be subject to a self-insured retention or deductible exceeding \$25,000.

Automobile Liability: Not less than \$1,000,000.00 Combined Single Limit per occurrence for bodily injury and property damage. May not be subject to a self-insured retention or deductible exceeding \$10,000.

Professional Liability or Errors and Omissions: Not less than \$2,000,000 per claim, including appropriate prior acts coverage for the period of time the Consultant provided services to the City. Self-insured retentions or deductibles should not exceed \$50,000.00 for written agreements or contracts with the City with a value of less than \$1,000,000; and \$100,000 for contracts with a value of \$1,000,000 or more.

Worker's Compensation: Worker's Compensation and Employer's Liability Insurance with limits of Employer's Liability Insurance not less than \$500,000 "each accident," \$500,000 "disease policy limit," and \$500,000 "disease each employee."

11.9.7 Insurance of Subcontractors. Consultant shall contractually require and verify that its subcontractors will maintain during the term of their agreement, the above types of insurance, in coverage amounts acceptable to the City.

11.9.8 Anything to the contrary notwithstanding, the liabilities of Consultant and any sub-contractors under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages.

11.10. Indemnification.

Consultant agrees to indemnify and hold harmless the City, its officers, agents and employees, 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 Consultant and any other persons employed or utilized by Consultant in provision of the Professional Services under this Agreement. PURSUANT TO F.S. SEC. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD LIABLE FOR NEGLIGENCE. To the extent considered necessary by the City, any sums due Consultant under this Agreement may be retained by City until all of City's claims for indemnification have been resolved, and any amount withheld shall not be subject to the payment of interest by City. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This paragraph shall not be construed to require Consultant to indemnify the City for the intentional acts or negligence of the City, its employees or agents. Nothing in this Agreement shall be deemed to be a waiver of the City's sovereign immunity under Section 768.28, Florida Statutes. This clause shall survive the expiration or termination of this Agreement.

11.11 Force Majeure

Any deadline provided for in this Agreement may be extended, as provided in this paragraph, if the deadline is not met because of one of the following conditions occurring with respect to that particular project or parcel: fire, strike, explosion, power blackout, earthquake, volcanic action, flood, war, civil disturbances, terrorist acts, hurricanes and acts of God. When one of the foregoing conditions interferes with contract performance, then the party affected may be excused from performance on a day-for-day basis to the extent such party's obligations relate to the performance so interfered with, or as agreed in writing between the parties, provided that the party so affected shall demonstrate and proceed with efforts to remedy or remove such causes of non-performance. The party so affected shall not be entitled to any additional compensation by reason of any day-for-day extension hereunder.

11.12. Termination

11.12.1 Either party may terminate this Agreement for cause in the event that: (1) the other party violates any material provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of its obligations hereunder, upon written notice to said defaulting party five (5) calendar days prior to termination.

11.12.2 In the event this Agreement is terminated by the City for cause, the City may take over the Professional Services and complete them by contracting with another consultant (s) or otherwise, and in such event, Consultant shall be liable to the City for any additional cost incurred by the City due to such termination. "Additional Cost" is defined as the difference between the actual cost of completion of such incomplete Professional Services and the cost of completion of such Professional Services which would have resulted from payments to Consultant had this Agreement not been terminated.

11.12.3 The City shall have the right to terminate this Agreement, in whole or in part, without cause, upon five (5) days written notice to Consultant, when the City determines that continuation of this Agreement would not produce beneficial results commensurate with the expenditure of public funds.

11.12.4 The City reserves the right to cancel this Agreement for failure by the Consultant to comply with the Public Records provisions of Chapter 119, Florida Statutes.

11.12.5 Upon termination, Consultant shall immediately assemble and deliver all documents, drawings, signed and sealed drawings, Construction Documents, Technical Specifications, CADD files, calculations, specifications, correspondence, testing and materials information, warranties, manuals, written information, electronic data and all other materials in its possession concerning the Professional Services under this Agreement and City projects to the City.

11.12.6 In the event of termination, Consultant, upon receipt of the notice of such termination, shall: (1) stop the performance of the Professional Services on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts except as may be necessary for completion of any portion(s) of the Professional Services not terminated and as authorized by the written notice; (3) terminate all orders and subcontracts to the extent that they relate to the performance of the Professional Services terminated by the notice of termination; (4) transfer title to the City (to the extent that title has not already been transferred) and deliver according to the manner, at the times, and to the extent directed by the City, all property purchased under this Agreement and reimbursed as direct items of cost and not required for completion of the services not terminated; (5) promptly assemble and deliver as provided above all documents related to this Agreement; (6) promptly complete performance of any Professional Services not terminated by the notice of termination and/or cooperate in transition of its consulting duties to appropriate parties at the direction of the City.

11.12.7 In the event of termination, the City shall compensate Consultant for all authorized Professional Services satisfactorily performed through the termination date, and for costs incurred, under the payment terms contained in this Agreement. In the event of Termination for Cause, no payments to Consultant shall be made (1) for Professional Services not satisfactorily performed and (2) for assembly of and submittal of documents as required under this Agreement. In no event shall City be obligated to compensate Consultant for lost profits, or any resulting or consequential damages.

11.12.8 Upon termination, this Agreement shall have no further force or effect and the parties shall be relieved of all further liability under this Agreement, except that the provisions of this section and the provisions regarding termination, the right to audit, property rights, insurance, indemnification, governing law and litigation shall survive termination of this Agreement and remain in full force and effect.

11.13 Communications and Notice

All written notices, demands and other communications required or provided for under this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, in the case of mailing, or by overnight or same day courier, or by electronic transmission producing a written record, or hand delivered to the appropriate parties at the addresses(es) listed in Exhibit C.

11.14 Performance Evaluations

Consultant will be evaluated on a project-by-project basis. The evaluations provide information about compliance with budget, schedule, and oversight needs and provide input for the recertification process. Evaluations are submitted to the Consultant's person in responsible charge or designee as part of the project closeout process.

11.15 Performance of Government Functions.

Notwithstanding anything in this Agreement to the contrary, nothing contained in this Agreement shall in any way stop, limit or impair the City of West Palm Beach from exercising or performing any regulatory, policing, legislative, governmental or other powers or functions with respect to any project.

11.16 Litigation; Governing Law; Venue; Waiver of Jury Trial

This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law without regard to conflicts of law provisions. The City and Consultant submit to

the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or the Federal Southern District of Florida. Consultant agrees to waive all defenses to any suit filed in Florida based upon improper venue or *forum nonconveniens*.

11.17 Waiver of Jury Trial.

THE CITY AND CONSULTANT HEREBY MUTUALLY KNOWINGLY, WILLINGLY AND VOLUNTARILY WAIVE THE RIGHT TO TRIAL BY JURY, AND NO PARTY NOR ANY ASSIGNEE, SUCCESSOR, OR LEGAL REPRESENTATIVE OF THE PARTIES (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE "PARTIES") SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEEDING BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY WORK AUTHORIZATION ISSUED HEREUNDER, OR ANY COURSE OF ACTION, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS RELATING TO THIS AGREEMENT. THE PARTIES ALSO WAIVE ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES. THE WAIVER CONTAINED HEREIN IS IRREVOCABLE, CONSTITUTES A KNOWING AND VOLUNTARY WAIVER AND SHALL BE SUBJECT TO NO EXCEPTION. NEITHER THE CITY NOR THE CONSULTANT HAS IN ANY WAY AGREED WITH OR REPRESENTED TO THE OTHER OR ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

11.18 Remedies

No remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy granted by this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy shall preclude any other or further exercise thereof.

No provision of this Agreement is intended, nor shall be construed to, create any third party beneficiary or provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or any employee of the City or Consultant.

11.19 Inspector General.

Consultant is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and may demand and obtain records and testimony from the Consultant and its subcontractors and lower tier subcontractors. Consultant understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Consultant or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

11.20 Time of Essence

Time shall be of the essence for each and every provision of this Agreement.

11.21 Waiver.

11.21.1 Any waiver by either party of any one or more of the covenants, conditions, or provisions of this Agreement, shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement.

11.21.2 Nothing in this Agreement shall be interpreted to constitute a release of the responsibility and liability of Consultant, its employees, sub-contractors, agents and sub-consultants for the accuracy and competency of their designs, working drawings, Construction Documents, Technical Specifications or other documents and works, nor shall any approval by the City be deemed to be an assumption of such

responsibility by the City for a defect or omission in designs, Construction Documents, Technical Specifications or other documents prepared by Consultant, its employees, agents or subcontractors.

11.22 Headings.

The headings contained in this Agreement are provided for convenience only and shall not be considered in construing, interpreting or enforcing this Agreement.

11.23 Counterparts; Electronic Signatures.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

11.24 Severability of Provisions

In the event that any term or provision of this Agreement shall to any extent be held invalid or unenforceable, it is agreed that the remainder of this Agreement, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the maximum extent permitted by law.

11.25 Assignment.

This Agreement may not be assigned by Consultant without the written authorization of the City after City's determination of the ability of the assignee to perform the Professional Services. Authorization may be withheld or delayed in the City's sole and absolute discretion. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

11.26 Attached Exhibits

The following Exhibits and Forms are attached to this Agreement and incorporated into and made a part of this Agreement:

- Exhibit A – Hourly Rates
- Exhibit B – MWBE/Small Business commitments (Forms MB01, MB03, SB01, SB03)
- Exhibit C – Notice provisions
- Exhibit D – Form of Work Authorization

11.27 Entire Agreement; Controlling Provisions; Amendment

11.27.1 This Agreement, including the RFQ, the Proposal, and Exhibits which are incorporated into this Agreement in their entirety, embody the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous agreements and understandings, oral or written, relating to said subject matter.

11.27.2 Except as otherwise specifically provided in this Agreement, in the event of any conflict between the specific provisions of this Agreement and the requirements or provisions of the RFQ and/or Proposal, the provisions shall be given precedence in the following order: (1) this Agreement, (2) the Work Authorization; (3) the RFQ; and (4) the Proposal. Wherever possible, the provisions of the documents shall be construed in such manner as to avoid conflicts between provisions of the various documents.

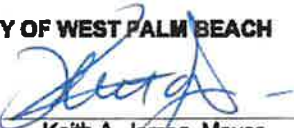
11.27.3 This Agreement may only be modified by written amendment executed by the City and Consultant. Any amendments to this Agreement: (1) shall be subject to the mutual written agreement of the parties; (2) shall be in the form of numbered amendments; (3) shall be executed by both parties; and, (4) shall become part of the public records of the City. It is expressly understood, moreover, that no oral discussions, assents or representations shall constitute an enforceable amendment to this Agreement unless it is reduced to writing in accordance with this paragraph.

IN WITNESS WHEREOF, the parties hereto have made and executed this Continuing Professional Services Agreement for General Engineering Services and have hereunto signed in their names by their duly authorized representatives.

ATTEST:

By: 
City Clerk

CITY OF WEST PALM BEACH

By: 
Keith A. James, Mayor

Date: 4/30, 2021

CITY ATTORNEY'S OFFICE
Approved as to form and legality

By: 

Consultant:
BAXTER AND WOODMAN, INC.

By: 

Print Name: Rebecca Travis

Title: Executive Vice President

EXHIBIT A
HOURLY RATES

EXHIBIT B

MWBE / SMALL BUSINESS COMMITMENT

[Insert Statement of MWBE Participation (Form MB01, MB03)

[Insert Statement of Small Business Participation (Form SB01, SB03)

STATEMENT OF MINORITY / WOMAN BUSINESS PARTICIPATION



Office of Equal Opportunity

City of West Palm Beach
401 Clematis Street,
West Palm Beach, FL 33401-4702
Tel. (561) 822-2100
Fax (561) 822-1564

Website: <http://www.cityofwestpalmbeach.com/eo>

Form MB01

Statement of MWBE Participation

Instructions: List all MWBEs that will participate on this project/contract. Only City certified MWBE firms and Palm Beach County Office of Equal Business Opportunity (PBCO OEBO) can be used to meet the goal established for this project/contract. Submit this form with your bid/proposal.

SECTION I. General Information

Bidder or Proposer's Name: Baxter & Woodman, Inc.
Preparer's Name: Rebecca Travis, PE, ENV SP Title: Vice President, Florida Division Manager
RFQ Title: General Engineering Services Project Number: 18-19-405
RFQ Number: 18-19-405 MWBE Subcontractor Participation: 12%
Total Base Project/Contract Amount: \$ TBD

SECTION II. MWBE Participation

The firm(s) listed below have agreed to participate in this project or contract.

Subcontractor Name	Item Description or Work/Service to be performed	Dollar Value	Percent of Dollar Value/Base Bid	Percent of Dollar Value Total Bid
1. <u>C Solutions, Inc.</u>	<u>Water Resources</u>	<u>\$ TBD</u>	<u>TBD %</u>	<u>10 %</u>
2. <u>Radise International</u>	<u>Geotechnical Analysis</u>	<u>\$ TBD</u>	<u>TBD %</u>	<u>1 %</u>
3. <u>Electrical Design Associates</u>	<u>Electrical Services</u>	<u>\$ TBD</u>	<u>TBD %</u>	<u>1 %</u>
4. _____		<u>\$ _____</u>	<u>_____ %</u>	<u>_____ %</u>
5. _____		<u>\$ _____</u>	<u>_____ %</u>	<u>_____ %</u>
6. _____		<u>\$ _____</u>	<u>_____ %</u>	<u>_____ %</u>
TOTAL		<u>\$ _____</u>	<u>_____ %</u>	<u>12 %</u>

Preparer's Signature: _____

Date: 4/15/2021

RFQ 18-19-405
CCNA GENENG 072319

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STATEMENT OF SMALL BUSINESS PARTICIPATION



Office of Equal Opportunity
 City of West Palm Beach
 401 Clematis Street, 3rd Floor
 West Palm Beach, FL 33401-4702
 Tel. (861) 822-2100
 Fax (861) 822-1864

Website: www.westpalmbeach.com
 Form SB01

Statement of Small Business Participation

Instructions: List all Small Businesses that will participate on this project/contract. Only City certified small businesses and Palm Beach County Office of Small Business Assistance (PBCOSBA) certified Small Businesses can be used to meet the goal established for this project/contract. Submit this form with your bid/proposal.

SECTION I. General Information

Bidder or Proposer's Name: **Baxter & Woodman, Inc**

Preparer's Name: **Rebecca Travis, PE, ENV SP** Title: **Vice President, Florida Division Manager**
 RFQ Title: **General Engineering Services** Project Number: **18-19-405**
 RFQ Number: **18-19-405** SB Goal (if established): **15%**
 Total Base Project/Contract Amount: **\$ TBD**

SECTION II. Small Business Participation

The firm(s) listed below have agreed to participate in this project or contract.

Subcontractor Name	Item Description or Work/Service to be performed	Dollar Value	Percent of Dollar Value/Base Bid	Percent of Dollar Value Total Bid
1. Ritzel-Mason	Surveying and GUE Services	\$ TBD	TBD %	1 %
2. Genelle G. et al/Holloway O'Leary & Associates, Inc.	Landscape Architecture	\$ TBD	TBD %	1 %
3. Electrical Design Associates, Inc.	Electrical Services	\$ TBD	TBD %	1 %
4. Radise International	Geotechnical Analysis	\$ TBD	TBD %	10 %
5. C Solutions, Inc.	Environmental Services	\$ TBD	TBD %	1 %
6. Brent Wood Architecture	Architecture	\$ TBD	TBD %	1 %
TOTAL				15 %

Preparer's Signature:

Date: **4/15/2021**

RFQ 18-19-405
 CCNA GENENG 072319

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SUBCONTRACTOR LISTING



Office of Equal Opportunity

City of West Palm Beach
 401 Clematis Street
 West Palm Beach, Florida 33401-4702
 Tel: 561-822-2100
 Fax: 561-822-1084

Website: www.westpalmbeach.com

Form SB02


Subcontractors Listing

Bidder/Proposer's Name: **Baxter & Woodman, Inc.** Telephone **561-655-6175**

RFQ Title: **General Engineering Services** RFQ No.: **18-19-405**

NOTE: List all subcontractors you invited to bid on this project, whether they were selected or not, including those identified on the Schedule of Subcontractors. Submit this form with your bid. Use additional sheets if necessary.

	Company Name	Work to Be Performed	Contact Person	Telephone Number
1.	C Solutions, Inc.	Environmental Services	Jennifer Pretzel, P.E., PMP	561-244-9480
2.	Ritzel-Mason, Inc.	Surveying and SUE Services	Dennis Ritzel	786-472-0358
3.	Electrical Design Associates, Inc.	Electrical Engineering	Lillian Reyes, P.E.	561-819-5556
4.	Gentile Glas Holway O'Mahoney & Associates, Inc.	Landscape Architecture	George Gentile	561-575-9557
5.	Radise International, LLC	Geotechnical Analysis	Andrew Nixon, P.E.	561-841-0103
6.	Brent A. Wood Architecture, LLC	Architecture	Brent Wood, NCARB	772-220-1217
7.				
8.				

Print Preparer's Name: **Rebecca Travis, PE, ENV SP** Title: **Vice President, Florida Division Manager**
 Signature:  Date: **4/15/2021**

RFQ 18-19-405
 CCNA GENENG 072318

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EXHIBIT C

Notice

All notices required by this Agreement shall be sent in accordance with Section 11.13 to the following addresses:

To the City:

City of West Palm Beach
Attn: City Administrator
P.O. Box 3366
West Palm Beach, FL 33402-3366

Or

401 Clematis Street – 2nd floor
West Palm Beach, FL 33401

with a copy to: City of West Palm Beach
Attn: City Attorney
P.O. Box 3366
West Palm Beach, FL 33402-3366

To Consultant:

Baxter and Woodman, Inc.
Attn: Rebecca Travis, Exec. Vice President
477 S. Rosemary Ave., Ste. 330
West Palm Beach, FL 33401



CITY OF WEST PALM BEACH
GENERAL ENGINEERING

PROJECT: _____

WORK AUTHORIZATION No. _____

CONSULTANT: **BAXTER AND WOODMAN, INC.**
Contract No. 26968. _____

1. **Task/Project.** _____

(include brief description)

2. **Area of Qualification:** _____

High Threshold Low Threshold

3. **Detailed Scope of Professional Services.**

A detailed scope of services under this Work Authorization, in accordance with the phases of Professional Service detailed in the Agreement, is attached as Exhibit _____.

For project administration services: Consultant shall provide project/construction administration services in accordance with the Agreement.

4. **Deliverables**

Consultant shall deliver to the City the deliverables described in attached Exhibit _____:

5. **Schedule**

Consultant shall perform and complete the design Professional Services in accordance with the schedule and time indicated on the attached Exhibit _____. Anticipated completion date: _____

For project administration services: Consultant shall provide project/construction administration services in accordance with the project construction schedule.

All services under this Work Authorization shall be completed prior to expiration of the Agreement.

6. **Compensation**

If a High cost threshold project, the total estimated construction costs of the project under this Work Authorization shall be more than \$750,000 but shall not exceed \$4 Million, or if issued for a study or report, the total Compensation shall not exceed \$500,000, or as otherwise allowed by state law.

If a Low cost threshold project, the total estimated construction costs of the project under this Work Authorization may not exceed \$750,000, or if issued for a study or report, the total Compensation shall not exceed \$100,000.

The total Fee to be paid to Consultant under this Work Authorization, based on the hourly rates in effect under the Agreement, shall not exceed _____ (\$ _____). check if Fee is a lump sum Fee.

A detailed fee schedule, showing hours and rates to support the total Fee, is attached as Exhibit _____.

The payment schedule (based on deliverables) is attached as Exhibit _____.

7. **MWBE Participation.** *check if applicable*
 Consultant commits to participation by an African-American MWBE at _____% of the value of this work authorizations. Consultant has attached Forms MB01 and MB03 and any other required MB forms with this Work Authorization. Consultant acknowledges that the Agreement requires participation by an African-American MWBE at 9.92% of the aggregate value of all work authorizations to be issued under the Agreement.

8. **Small Business.** *check if applicable*
 Consultant *acknowledges* that its Proposal contains a statement of Small Business Participation at _____% of the value of this work authorization. Consultant has attached Forms SB01 and SB03 and any other required small business forms with this Work Authorization. Consultant acknowledges that the small business goal for the aggregate of all work authorizations issued under this Agreement is 15%.

9. **Insurance.**
 Consultant shall maintain insurance coverages in accordance with the Agreement and hereby confirms that Certificate(s) of Insurance evidencing *current* policies meeting the requirements of the Agreement are on file with the City as of the date of this Work Authorization.

10. **Agreement Reference**
 This Work Authorization shall be performed under the terms and conditions described within the Continuing Professional Services Agreement, dated _____, 2021, by and between the City of West Palm Beach and Baxter and Woodman, Inc. ("Consultant"), Contract No 26968.

11. **Exhibits.**
 All attached Exhibits are incorporated fully into this Work Authorization and the Agreement.

12. **Notice to Proceed.**
 If checked, Consultant's receipt of a fully-executed copy of this Work Authorization shall serve as the Notice to Proceed under this Work Authorization, effective as of the date the fully-executed Work Authorization was emailed to the Consultant.

 If checked, Consultant shall commence Professional Services under this Work Authorization as specified in a forthcoming Notice to Proceed.

CONSULTANT:
BAXTER AND WOODMAN, INC.

CITY OF WEST PALM BEACH

By: _____

By: Keith A. James, Mayor

Print Name: _____

Date: _____, 20____

Attest: _____
 City Clerk

City Attorney's Office
 Approved as to form and legality

By: _____

**BAXTER & WOODMAN, INC.
POLICIES ADOPTED BY THE BOARD OF DIRECTORS**

CONTRACT AUTHORITY OF VICE PRESIDENTS, DIVISION MANAGERS AND REGION OFFICE MANAGERS

Effective April 18, 2019, the Baxter & Woodman, Inc. Board of Directors updated the following policy regarding the authority of Vice Presidents, Division Managers, and Region Managers:

- Members of the Board of Directors, Division Managers, Region Managers, and Vice Presidents have the authority to sign proposals, work orders, and engineering service agreements so long as those proposals, work orders, and engineering services agreements have been reviewed using the proper procedures.
- Division Managers, Region Managers and Vice Presidents have the authority to initiate and sign proposals, work orders, and engineering service agreements in amounts of \$10,000 or less without following normal review procedures.
- It is hereby confirmed that Rebecca Travis, Claude Cassagnol, and Aaron Cutler are Florida Region Vice Presidents of Baxter & Woodman, Inc. and have the authority to sign proposals, work orders, and engineering service agreements referenced herein.

Certified by:


John V. Ambrose
President/CEO

2/21/2020

Date

STATE OF ILLINOIS)

COUNTY OF MCHEENRY)

The foregoing instrument was acknowledged before me this 21 day of FEB., 2020, by JOHN V. AMBROSE, of BAXTER & WOODMAN INC., an Illinois Corporation, on behalf of the corporation, and who is personally known to me, or who has produced the following _____ as identification.

Notary Public:



Print Name: DEBORAH FINN

My Commission Expires: MAY 1, 2022





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc. 650 Dundee Road Suite 170 Northbrook IL 60062	CONTACT NAME:		
	PHONE (A/C, No, Ext):	FAX (A/C, No):	
INSURED Baxter & Woodman, Inc. 477 S. Rosemary Avenue Suite 330 West Palm Beach FL 33401	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Valley Forge Ins Co		20508
	INSURER B: Continental Insurance Co		
	INSURER C: Continental Casualty Company		
	INSURER D:		
	INSURER E:		
INSURER F:			


COVERAGES **CERTIFICATE NUMBER:** CL20122188453 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> primary/non contributory <input checked="" type="checkbox"/> subject to written contract GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			6045872351	01/01/2021	01/01/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			6045872348	01/01/2021	01/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			6045872365	01/01/2021	01/01/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	6045872379	01/01/2021	01/01/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			AEH591900841	01/01/2021	01/01/2022	Per Claim 5,000,000 Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: West Palm Beach Contract #26968 - The City of West Palm Beach, its commissioners, officers, employees and agents are included as additional insureds per blanket endorsement as respect GL/Auto, subject to written contract requiring same. GL/Auto are primary & non-contributory.

CERTIFICATE HOLDER City of West Palm Beach 401 Clematis Street West Palm Beach FL 33401	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE
Name of Additional Insured Person Or Organization
ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II - LIABILITY COVERAGE**, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the **"accident"** for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

Form No: CNA71527XX (10-2012)	Endorsement Expiration Date:	Policy No: BUA 6045872348
Endorsement Effective Date:		Policy Effective Date: 01/01/2021
Endorsement No: 20; Page: 1 of 1		Policy Page: 58 of 86
Underwriting Company: The Continental Insurance Company, 151 N Franklin St, Chicago, IL 60606		



Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
 - A. in the performance of your ongoing operations subject to such **written contract**; or
 - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
 - 1. the **written contract** requires you to provide the additional insured such coverage; and
 - 2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
 - A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
 - B. additional insured coverage with "arising out of" language; or
 - C. additional insured coverage to the greatest extent permissible by law;then paragraph I. above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
 - A. coverage broader than required by the **written contract**; or
 - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
 - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
 - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - 2. supervisory, inspection, architectural or engineering activities; or
 - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

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**Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement****Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VI. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
 1. the **bodily injury** or **property damage**; or
 2. the offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

**Architects, Engineers and Surveyors General Liability
Extension Endorsement****1. ADDITIONAL INSURED**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs A. through I. below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury or property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph A. through I. below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage or personal and advertising injury** as co-owner of such premises.

C. Engineers, Architects or Surveyors Engaged By You

An architect, engineer or surveyor engaged by the **Named Insured**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by the **Named Insured's** acts or omissions, or the acts or omissions of those acting on the **Named Insured's** behalf:

a. in connection with the **Named Insured's** premises; or

b. in the performance of the **Named Insured's** ongoing operations.

But the coverage hereby granted to such additional insureds does not apply to **bodily injury, property damage or personal and advertising injury** arising out of the rendering of or failure to render any professional services by, on behalf of, or for the **Named Insured**, including but not limited to:



**Architects, Engineers and Surveyors General Liability
Extension Endorsement**

1. the preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. supervisory, inspection, architectural or engineering activities.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage or the offense** giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage or the offense** giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
 - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - b. the construction, erection, or removal of elevators; or
 - c. the ownership, maintenance or use of any elevators covered by this insurance; or

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**Architects, Engineers and Surveyors General Liability
Extension Endorsement**

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:
 - a. the **Named Insured's** acts or omissions; or
 - b. the acts or omissions of those acting on the **Named Insured's** behalf,in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury or property damage** included within the **products-completed operations hazard**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. ADDITIONAL INSURED – EXTENDED COVERAGE

When an additional insured is added by this or any other endorsement attached to this **Coverage Part, WHO IS AN INSURED** is amended to make the following natural persons **Insureds**.

If the additional insured is:

- a. An individual, then his or her **spouse** is an **Insured**;
- b. A partnership or joint venture, then its partners, members and their **spouses** are **Insureds**;
- c. A limited liability company, then its members and managers are **Insureds**; or
- d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are **Insureds**;



Architects, Engineers and Surveyors General Liability Extension Endorsement

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations.

Please see the ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES provision of this endorsement for additional coverage and restrictions applicable to spouses of natural person Insureds.

4. BOATS

Under COVERAGES, Coverage A – Bodily Injury And Property Damage Liability, the paragraph entitled Exclusions is amended to add the following additional exception to the exclusion entitled Aircraft, Auto or Watercraft:

This exclusion does not apply to:

Any watercraft owned by the Named Insured that is less than 30 feet long while being used in the course of the Named Insured's inspection or surveying work.

5. BODILY INJURY – EXPANDED DEFINITION

Under DEFINITIONS, the definition of bodily injury is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

6. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under CONDITIONS, the condition entitled Duties in The Event of Occurrence, Offense, Claim or Suit is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The Named Insured must give the Insurer or the Insurer's authorized representative notice of an occurrence, offense or claim only when the occurrence, offense or claim is known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or to an employee designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The Named Insured's rights under this Coverage Part will not be prejudiced if the Named Insured fails to give the Insurer notice of an occurrence, offense or claim and that failure is solely due to the Named Insured's reasonable belief that the bodily injury or property damage is not covered under this Coverage Part. However, the Named Insured shall give written notice of such occurrence, offense or claim to the Insurer as soon as the Named Insured is aware that this insurance may apply to such occurrence, offense or claim.

7. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a Named Insured has management control:

- a. on the effective date of this Coverage Part; or
b. by reason of a Named Insured creating or acquiring the organization during the policy period,

qualifies as a Named Insured, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have

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**Architects, Engineers and Surveyors General Liability
Extension Endorsement**

provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

- 4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
 - a. **bodily injury or property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
 - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
- 5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

8. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

Insured Contract means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** you with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury or property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:



**Architects, Engineers and Surveyors General Liability
Extension Endorsement**

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** of any natural person **Insured** or living trust shall also be insured under this policy; provided, however, coverage is afforded to such estates, executors, heirs, legal representatives, administrators, trustees, beneficiaries and **spouses** only for **claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided, however, that the **spouse** of a natural person **Named Insured**, and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION

A. A separate Location General Aggregate Limit, equal to the amount of the General Aggregate Limit, is the most the Insurer will pay for the sum of:

- 1. All **damages** under **Coverage A**, except **damages** because of **bodily injury or property damage** included in the **products-completed operations hazard**; and
- 2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that location. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Location General Aggregate Limit of any other location.

B. All:

- 1. **Damages** under **Coverage B**, regardless of the number of locations involved;

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**Architects, Engineers and Surveyors General Liability
Extension Endorsement**

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single location, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single location,

will reduce the General Aggregate Limit shown in the Declarations.

- C. For the purpose of this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision, "location" means:

1. a premises the **Named Insured** owns or rents; or
2. a premises not owned or rented by any **Named Insured** at which the **Named Insured** is performing operations pursuant to a contract or written agreement. If operations at such a location have been discontinued and then restarted, or if the authorized parties deviate from plans, blueprints, designs, specifications or timetables, the location will still be deemed to be the same location.

For the purpose of determining the applicable aggregate limit of insurance, premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad shall be considered a single location.

- D. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Location General Aggregate Limit or the General Aggregate Limit, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular location.
- E. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**, regardless of the number of locations involved, will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this **GENERAL AGGREGATE LIMITS OF INSURANCE - PER LOCATION** Provision shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

- A. Under **COVERAGES, Coverage A – Bodily Injury And Property Damage Liability**, the **Insuring Agreement** is amended to replace Paragraphs 1.b.(1) and 1.b.(2) with the following:
- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
 - (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
 - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/4/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Holmes Murphy Associates/CSDZ, LLC 225 South 6th Street Suite 1900 Minneapolis MN 55402	CONTACT NAME: Diane O'Leary PHONE (A/C, No, Ext): 612 349 2495 FAX (A/C, No): E-MAIL ADDRESS: doleary@cspd.com
	INSURER(S) AFFORDING COVERAGE
	INSURER A: Valley Forge Insurance Company NAIC #: 20508
	INSURER B: The Continental Insurance Company NAIC #: 35289
	INSURER C: Continental Casualty Company NAIC #: 20443
	INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER: 904601041** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY			7017821337	1/1/2022	1/1/2023	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/>	CLAIMS-MADE		<input checked="" type="checkbox"/>				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
								MED EXP (Any one person)	\$ 15,000
								PERSONAL & ADV INJURY	\$ 1,000,000
								GENERAL AGGREGATE	\$ 2,000,000
								PRODUCTS - COMP/OP AGG	\$ 2,000,000
									\$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:								
B	<input checked="" type="checkbox"/>	AUTOMOBILE LIABILITY			7017821337	1/1/2022	1/1/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/>	ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/>	OWNED AUTOS ONLY	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident)	\$
	<input type="checkbox"/>	HIRE AUTOS ONLY	<input type="checkbox"/>	<input type="checkbox"/>				PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>					\$
B	<input checked="" type="checkbox"/>	UMBRELLA LIAB			7017835416	1/1/2022	1/1/2023	EACH OCCURRENCE	\$ 10,000,000
	<input type="checkbox"/>	EXCESS LIAB						AGGREGATE	\$ 10,000,000
	<input type="checkbox"/>	CLAIMS-MADE							\$
	<input type="checkbox"/>		<input checked="" type="checkbox"/>						\$
								DED	\$ 10,000
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			717818681	1/1/2022	1/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	<input type="checkbox"/> N/A				E.L. EACH ACCIDENT	\$ 1,000,000
		If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
								E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
C		Professional Liability			AEH591900841	1/1/2022	1/1/2023	Per claim	\$5,000,000
		Claims made form						Aggregate	\$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 All work performed.

Town of Lake Park its elected commissioners, appointed officers, employees and agents, are included as additional insureds per blanket endorsement as respect GL/Auto/Umbrella, subject to written contract requiring same.

CERTIFICATE HOLDER Town of Lake Park 535 Park Avenue Lake Park FL 33403	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Paula Dixon</i>

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