

RESOLUTION NO. 03-01-08

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE TOWN OF LAKE PARK AND ERDMAN ANTHONY OF FLORIDA INC., FOR THE PROVISION OF PROFESSIONAL ENGINEERING AND DESIGN SERVICES FOR THE DESIGN OF A PRELIMINARY STREET LIGHTING SYSTEM IN THE AREA ALONG SILVER BEACH ROAD BETWEEN CONGRESS AVENUE AND AVENUE "S" IN THE TOWN OF LAKE PARK FOR THE STREET LIGHTING SYSTEM AND INSPECTION PROJECT FUNDED BY PALM BEACH COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park ("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 contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, the Town requires the services of a professional engineering firm to design a preliminary street lighting system for the area along Silver Beach Road between Congress Avenue and Avenue "S" ("Project") in the Town; and

WHEREAS, the subject roadway is owned by the Town and is an existing two urban section with a median in the western portion; and

WHEREAS, the proposed street lighting Project requires the design of lighting plans to show the proposed placement of street light poles and lamp specifications for use by Florida Power & Light; and

WHEREAS, the existing street lights east of Avenue “S” on the north side of the street will be extended as part of this Project to the west to cover the subject portion of Silver Beach Road; and

WHEREAS, the street lighting Project is being funded by Palm Beach County and the County has offered design review service assistance to the Town in connection with this project; and

WHEREAS, the Town has solicited competitive proposals through a Request for Proposals issued pursuant to the requirements of the Consultants Competitive Negotiation Act (“CCNA”); and Town staff has determined that the proposal submitted by is acceptable and in the best interest of the Town; and

WHEREAS, Erdman Anthony of Florida, Inc., (“Contractor”) has submitted a Proposal in response to the Town’s solicitation, and the Contractor has represented that it is qualified, able and willing to satisfactorily provide said services; and

WHEREAS, Palm Beach County as also entered into a contract with Erdman Anthony of Florida, Inc dated May 1, 2007 for professional services related to this Project; and

WHEREAS, the Town has found the Contractor’s Proposal to be acceptable and in the best interests of the Town, and the parties wish to enter into a Contract for the provision of the required professional engineering design services for the street lighting system Project; and

WHEREAS, the Town has budgeted funds in its current fiscal year budget which are available for the funding of this Contract, a copy of the Contract is attached hereto as **Exhibit it “A”**; and

WHEREAS, Town staff is recommending that the Town Commission approve the award of this Contract to Erdman Anthony of Florida, Inc and that the Commission authorize and direct the Mayor to execute the attached Contract on behalf of the Town.

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

Section 1. The whereas clauses are hereby incorporated herein as true and correct.

Section 2. The Mayor is hereby authorized and directed to execute the Agreement between the Town of Lake Park and Erdman Anthony of Florida, Inc attached hereto as **Exhibit “A”**.

Section 3.

This Resolution shall take effect immediately upon its adoption.

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

	AYE	NAY
MAYOR PAUL W. CASTRO	<u>Absent</u>	_____
VICE-MAYOR ED DALY	<u>✓</u>	_____
COMMISSIONER CHUCK BALIUS	<u>✓</u>	_____
COMMISSIONER JEFF CAREY	<u>✓</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>✓</u>	_____

The Town Commission thereupon declared the foregoing Resolution NO. 03-01-08 duly passed and adopted this 16 day of January, 2008.

TOWN OF LAKE PARK, FLORIDA

BY: Ed Daly
for PAUL W. CASTRO
MAYOR

ATTEST:

Vivian Mendez
VIVIAN MENDEZ
TOWN CLERK

TOWN OF LAKE PARK
TOWN SEAL
SEAL
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
BY: _____
for THOMAS J. BAIRD
TOWN ATTORNEY

**CONTRACT
BETWEEN THE TOWN OF LAKE PARK, FL
AND
ERDMAN ANTHONY OF FLORIDA, INC.**

THIS CONTRACT, made this ___ day of August, by and between the Town of Lake Park, a municipal corporation of the State of Florida, hereinafter designated as "the TOWN", and Erdman Anthony of Florida, Inc., 1402 Royal Palm Beach Blvd., Building 500, Royal Palm Beach, FL 33411, a Florida corporation, FEID Number 20-0930234, hereinafter designated as "the CONSULTANT".

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 empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, the TOWN has budgeted funds in its current fiscal year budget which are available for the funding of this CONTRACT;

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

1. STATEMENT OF WORK

1.1 The CONSULTANT shall, to the satisfaction of the TOWN, fully and timely provide engineering services to prepare a preliminary design for street lighting along Silver Beach Road between Congress Avenue and Avenue "S" in the Town of Lake Park ("Project" and "Project Area") as described as follows:

1.1.1 The CONSULTANT shall provide professional engineering services to the TOWN for the preliminary design of a street lighting layout using General Electric's Aladan program, Version 2002.2.1 or the most recent version. The CONSULTANT shall conduct site inspections of the subject roadway and general area, shall review the County Property Appraiser's maps and aerial photographs and images of the Project area and all available roadway plans, existing lighting plans for the lighting adjacent to the Project, and other documents necessary to assess the existing two (2) typical section configurations, intersections and turn lanes, and any existing overhead and underground utilities, existing driveway locations, existing landscaping, existing street lighting and other lighting within or adjacent to the Project Area. The CONSULTANT will coordinate with Florida Power &

Light ("FPL") to determine the suitability of the existing and future poles to be fitted with streetlights, and the ability to add additional utility poles for street lighting purposes, as well as the availability of electric service for the streetlights. A mandatory field meeting with FPL representatives shall be conducted to make these and other required assessments and determinations.

- 1.1.2 The CONSULTANT shall conduct a photo metric alighting analysis of the existing section configurations using the General Electric's Aladan program, Version 2002.2.1 (or the most recent version) to determine the most suitable design for the Project. Copies of the Aladan results shall be provided to the TOWN. In preparing the design, the CONSULTANT shall use at a minimum, the following criteria:
 1. Mounting height;
 2. Light fixture placement; (bracket arm length in conjunction with pole setback);
 3. Light fixture equipment (wattage, cut-off features, IES curve, etc.);
 4. Light pole spacing;
 5. Lighting criteria (initial illumination, uniformity ratios, etc.)
- 1.1.3 The CONSULTANT shall prepare a preliminary lighting layout that must include the placement of the proposed lights and light poles designed so that the layout conforms with delighting criteria of Palm Beach County and avoiding negative impacts on existing facilities, including but not limited to, overhead and underground utilities, drainage, driveways, landscaping.
- 1.1.4 The CONSULTANT shall conduct design meetings and progress meeting with TOWN staff and will review and explain the results of the photometric analysis, the general layout of the street lighting system being proposed, and any other issues relevant to the Project.
- 1.1.5 The CONSULTANT shall prepare preliminary plans depicting the general location of all proposed and existing street lights and other improvements in the Project area. These plans shall include general pole locations, with spacing dimensions and measurements and indicating spacing and/or stationing and offset from the centerline. Lumina ire size and mounting height shall also be shown on the plans. The plans shall include a pole data sheet that contains the following minimum specifications: (1) the pole number, (2) pole station, (3) the distance offset from the baseline, (4) a summary of the number and type of poles, luminaries, brackets, (5) a legend. The manufacturer's specifications and instructions shall be provided for all materials and equipment proposed. The Plans (sheets) shall be prepared on 11" x 17" sheets at 1" = 40' scale with approximately 600' of roadway construction shown on each sheet. The Project drawings

shall consist of the minimum following sheets:

- Sheet No. 1 Drawing No.: L-1 Cover Sheet with Title & Vicinity Map
- Sheet No. 2 Drawing No.: L-2 Pole Data Table, legend, Details
- Sheet No. 3 Drawing Nos.: L-3 to L-6 Preliminary Lighting Plans

1.1.6 All rights in data, drawings, specifications, sketches, maps, as-built drawings, designs, models, photographs, computer CADD discs, surveys, reports and other data developed or provided in connection with this CONTRACT, shall be the sole and exclusive property of the TOWN, and the TOWN shall have the full right to use such data for any official purpose permitted by law, including making it available to the public. Such use shall be without additional payment to or approval by the CONSULTANT. The TOWN shall have unrestricted authority to publish, disclose, distribute, and other wise use, in whole or in part, any data developer or prepared pursuant to this CONTRACT.

2. TERM AND PERIOD OF PERFORMANCE

2.1 The term of this CONTRACT shall commence on the date this CONTRACT is approved by the Town Commission and executed by the Mayor ("Contract Commencement Date"). The CONSULTANT shall complete the Project within ninety (90) days after a Notice to Proceed is issued by the TOWN. The Preliminary Approximate Progress Schedule:

Notice to Proceed Issue:	Sept. 1, 2007
Site Visit and Research Commence:	Sept. 1, 2007/Complete: Sept. 15, 2007
Meetings with FPL Commence:	Sept. 1, 2007/Complete Sept. 29, 2007
Photometric analysis Commence:	Sept. 29, 2007/Complete Oct. 13, 2007
Preliminary Plans Commence	Oct. 13, 2007/Complete Oct. 27, 2007
Progress Meeting Commence	Oct. 27, 2007/Complete Nov. 3, 2007
Respond to Comments Commence	Nov. 3, 2007/Complete Nov. 17, 2007
Submit final plans Commence	Nov. 17, 2007/Complete Dec. 1, 2007

2.2 The parties agree that time is of the essence in the performance of each any every obligation under this CONTRACT.

3. CONSIDERATION AND EXPENSES

3.1 Invoices shall be submitted by the CONSULTANT to the TOWN on a monthly basis. The TOWN shall have the right to withhold payment of an invoice due to errors or discrepancies in the invoice and/or a failure of the CONSULTANT to timely or properly perform any stage or portion of the work of the Contract. Payment of approved invoices will be made by the TOWN within thirty days of the TOWN's approval of the invoice. The following hourly rates, which shall not be changed during the Contract term. For the Project to be completed on a time-charge basis billing shall be based on the hours actually expended by CONSULTANT's personnel, multiplied by the following hourly rates, but in no event shall the cost for the Project exceed Six Thousand and Seven Hundred and Sixty-One Dollars and Seventeen Cents (\$6761.17):

ENGINEERING

Senior Engineer	\$139.09
Project Manager	\$148.51
Project Engineer	\$108.00
Engineer	\$ 89.25
Engineering Technician	\$ 65.49

3.2 Reimbursable expenses. CONSULTANT shall be reimbursed for out-of-pocket expenses directly chargeable to the Project, at the following costs:

Photometric Analysis (8.5" x 11") @ 9 sets/10 sheets per set = 90 units @ \$0.10 per unit = Total Cost \$9.00

Correspondence (8.5" x 11") @ 1 set, 200 units @ \$0.10 per unit = Total Cost \$20.00

Plans review (11" x 17") @ 12 sets/6 sheets per set = 72 units @ \$0.20 per unit = Total Cost \$14.40

Plans submittal (11" x 17") @ 3 sets/6 sheets per set = 18 units @ \$0.20 per unit = Total Cost \$3.60

Mylar submittal – No Charge

Overnight shipping; Actual cost. Submit bill for reimbursement.

The CONSULTANT shall not charge for facsimile transmittal, travel time, or telephone calls. These expenses shall conform to rates and allowances set forth in Section 112.061, Florida Statutes with regard to per diem and

traveling expenses. Identifiable communication expenses, reproduction costs, sub-consultant fees, overnight deliveries and special accounting expenses not applicable to general overhead shall be reimbursed at actual cost. Prior to expending these expenses, CONSULTANT shall provide notice that an expense may be incurred.

- 3.4 The CONSULTANT represents and warrants to the TOWN that these rates are the actual billing rates charged to other governmental agencies and the rates shall remain in effect for a period of one year from the date of CONTRACT execution. Under no circumstances shall the CONSULTANT be paid for travel to and from the TOWN or for any other travel associated with the work of this Contract.
- 3.5 Pursuant to Section 287.055(5)(a), Florida Statutes, signature of this CONTRACT by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the consideration are accurate, complete, and current at the time of contracting. The CONSULTANT agrees that the TOWN may adjust the consideration for this CONTACT to exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other actual unit costs. The TOWN shall make any such adjustment within one (1) year following the termination of this CONTRACT.
- 3.6 Requests for Additional Services. The undertaking by CONSULTANT to perform professional services defined within this Agreement extends only to those services specifically described herein. If upon the request of the TOWN, CONSULTANT agrees to perform additional services hereunder, the TOWN shall pay CONSULTANT for the performance of such additional services an amount (in addition to all other amounts payable under this Agreement) based on the hourly fee established herein, plus reimbursable expenses incurred by CONSULTANT, unless a lump sum addendum to this Agreement is executed by the parties to this Agreement addressing the additional services.

4. EQUAL OPPORTUNITY/MBE PARTICIPATION

- 4.1 The CONSULTANT hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this CONTRACT. The CONSULTANT shall take all measures necessary to effectuate these assurances.

5. INVOICING AND PAYMENT

- 5.1 The CONSULTANT'S invoices shall be sent to the following address:

Town of Lake Park
Town Manager
545 Park Avenue
Lake Park, FL 33403

- 5.2 The CONSULTANT shall bill the TOWN on a monthly basis. The TOWN shall pay the full amount of the invoice within thirty (30) days of receipt and acceptance of the work by the TOWN, and provided the CONSULTANT has performed the work according to the terms and conditions of this CONTRACT to the satisfaction of the TOWN.

6. INDEMNIFICATION AND INSURANCE

- 6.1 For One Hundred Dollars (\$100.00) consideration, the sufficiency of which is acknowledged, payable as part of and included in the first payment hereunder, the CONSULTANT shall indemnify, save, and hold the TOWN, including the Town Commission, elected and appointed officials, representatives and employees, harmless from any and all claims or causes of action, including without limitation, all damages, losses, liabilities, expenses, costs, and attorney's fees related to such claims, resulting from any negligent or intentional act or omission, or the violation of any federal, state, or local law or regulation, by the CONSULTANT, its subcontractors, agents, assigns, invitees, or employees in connection with this CONTRACT. The CONSULTANT further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this CONTRACT.
- 6.2 The CONSULTANT shall maintain, or cause to be maintained, the following specified insurance coverages in the amounts set forth hereafter during the full period of the CONTRACT, which must include the following coverages and minimum limits of liability:
- a. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE** for all employees of the CONSULTANT for Statutory Limits in compliance with the applicable state and federal laws. Notwithstanding the number of employees or any other statutory provisions to the contrary, coverage shall extend to all employees of the CONSULTANT and all subcontractors.
 - b. **COMPREHENSIVE GENERAL LIABILITY** with the minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury Liability, Property Damage Liability, Premises and Operations, Independent contractors, Products and Completed Operations, Broad Form Property / Personal Injury, XCU coverage, and a contractual Liability Endorsement.

- c. BUSINESS AUTO LIABILITY with minimum limits of \$1,000,000.00, Per Occurrence, Combined Single Limit for Bodily Injury and Property Damage Liability. This shall be an "any-auto" policy including Owned, Hired, Non-Owned, and Employee Non-Ownership Coverage.
 - d. PROFESSIONAL LIABILITY (malpractice and professional negligence) coverage with minimum limits of \$1,000,000.00 for all agents and employees of CONSULTANT.
- 6.3 The TOWN shall be included as an Additional Named Insured under the General Liability and Automobile Liability policies. Current valid insurance policies meeting the requirements herein identified shall be maintained during the duration of the CONSULTANT. There shall be a thirty (30) day notification to the TOWN, in the event of cancellation or modification of any stipulated insurance policy. It shall be the responsibility of the CONSULTANT to ensure that any subcontractors are adequately insured or covered under their policies.
- 6.4 All Certificates of Insurance shall be kept on file with the TOWN, and approved by the TOWN prior to the commencement of any work activities. The TOWN may at its discretion, require the CONSULTANT to provide a complete certified copy of the insurance policy(s). If this CONTRACT includes the installation of machinery and/or equipment into an existing structure, the Comprehensive General Liability policy must include an endorsement covering same, including installation and transit.
- 6.5 The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Florida with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability: B+ to A+.
- 6.6 The required general liability and workers compensation insurance shall preclude any underwriter's rights of recovery or subrogation against the TOWN with the express intention of the parties being that the required coverages protect both parties as the primary insurance for any and all losses covered by the above described insurance.
- 6.7 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as they appear in any policy of insurance in which the TOWN is named as an additional named insured shall not apply to TOWN.
- 6.8 Violation of the terms of this Paragraph 6 and its sub-parts shall constitute a material breach of the CONTRACT by the CONSULTANT and the TOWN, at its sole discretion, may cancel the CONTRACT and all rights, title and

interest of the CONSULTANT shall thereupon cease and terminate.

7. TERMINATION/REMEDIES

- 7.1 If either party fails to fulfill its obligations under this CONTRACT in a timely and proper manner, the other party shall have the right to terminate this CONTRACT by giving written notice of any deficiency. The party in default shall then have seven (7) calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this CONTRACT shall terminate at the expiration of the seven (7) day time period.
- 7.2 The TOWN may terminate this CONTRACT at any time for convenience upon thirty (30) calendar days prior written notice to the CONSULTANT. The performance of work under this CONTRACT may be terminated by the TOWN in accordance with this clause in whole, or from time to time in part, whenever the TOWN shall determine that such termination is in the best interest of the TOWN. Any such termination shall be effected by delivery to the CONSULTANT of a Notice of Termination specifying the extent to which performance of work under the CONTRACT is terminated, and the date upon which such termination becomes effective. In the event of termination, the TOWN shall compensate the CONSULTANT for all authorized and accepted work performed through the termination date. The TOWN shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this CONTRACT. The TOWN may withhold all payments to the CONSULTANT for such work until such time as the TOWN determines the exact amount due to the CONSULTANT.
- 7.3 If either party initiates legal action, including appeals, to enforce this CONTRACT, the prevailing party shall be entitled to recover a reasonable attorney's fee.

8. STANDARDS OF COMPLIANCE

- 8.1 The CONSULTANT, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulation relating to the performance of this CONTRACT. The TOWN undertakes no duty to ensure such compliance, but will attempt to advise the CONSULTANT, upon request, as to any such laws of which it has present knowledge.
- 8.2 The CONSULTANT, by its execution of this CONTRACT, acknowledges and attests that, neither he nor any of his suppliers, sub-consultants or affiliates who shall perform work which is intended to benefit the TOWN, has been convicted of any public entity crime pursuant to Section 287.133, Florida Statutes, or, if any such person, entity or affiliate was convicted of a public

entity crime, a period longer than thirty-six (36) months has passed since any such person, entity or affiliate was placed on a convicted vendor list. The CONSULTANT further understands and acknowledges by its execution of this CONTRACT, that this CONTRACT shall be null and void, and/or that this CONTRACT is subject to immediate termination by the TOWN, for any misstatement or lack of compliance with the mandates of said statute. The TOWN, in the event of such termination, shall not incur any liability to the CONSULTANT for any work or materials furnished.

- 8.3 The CONSULTANT shall not be exempted from paying Florida Sales and Use taxes to the appropriate governmental agencies or for payment by the CONSULTANT to suppliers for taxes on materials used to fulfill its contractual obligations with the TOWN. The CONSULTANT shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this CONTRACT.
- 8.4 Pursuant to Section 287.055(6), Florida Statutes, the CONSULTANT warrants that it has not employed or retained any person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT. Further, the CONSULTANT warrants that he has not paid or agreed to pay any person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the awarding or making of this CONTRACT. For breach of this provision, the TOWN may terminate this CONTRACT without liability and, at its discretion, deduct or otherwise recover the full amount of such fee, commission, percentage, gift, or other consideration.

9. RELATIONSHIP BETWEEN THE PARTIES

- 9.1 The CONSULTANT is an independent contractor and is not an employee or agent of the TOWN. Nothing in this CONTRACT shall be interpreted to establish any relationship other than that of an independent contractor, between the TOWN and the CONSULTANT, its employees, agents, subcontractors, or assigns, during or after the performance of this CONTRACT. The CONSULTANT is free to provide similar services for others.
- 9.2 The CONSULTANT shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this CONTRACT without the prior written consent of the TOWN. Any attempted assignment in violation of this provision shall be void.
- 9.3 The CONSULTANT shall not pledge the TOWN'S credit or make the TOWN a guarantor of payment or surety for any contract, debt, obligation, judgment,

lien, or any form of indebtedness.

10. RECORDS RETENTION/OWNERSHIP/AUDIT

- 10.1 The CONSULTANT understands that all documents produced by CONSULTANT pursuant to this CONTRACT are public records and CONSULTANT must permit the inspection and copying of all public records and must maintain all public records pursuant to Chapter 119, Florida Statutes. The CONSULTANT shall indemnify and hold the TOWN harmless from any demands, claims, actions or lawsuits of any kind regarding the CONSULTANT's failure to comply with Chapter 119, F.S. related to public records. The CONSULTANT shall permit the TOWN or its designated agent to inspect all records maintained by CONSULTANT, which are associated with this CONTRACT at the location where they are kept upon reasonable notice.
- 10.2 The TOWN has not performed a pre-audit of the CONSULTANT'S financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the CONSULTANT shall permit the TOWN or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the TOWN shall have the right to audit the CONSULTANT's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this CONTRACT. This audit may be performed by the TOWN or a designated agency.
- 10.3 All documents, including, but not limited to, technical reports, research notes, scientific data and computer programs in draft and final form including the source code and object code, which are developed by the CONSULTANT in connection with this CONTRACT, may be utilized by the TOWN in its normal course of business. TOWN use may include, but shall not be limited to, reproduction, distribution and preparation of derivative works. The TOWN will not hold the CONSULTANT responsible if documents are used for other purposes than intended.

11. CONFLICTS

The TOWN recognizes and acknowledges that the CONSULTANT is engaged in a business, which provides consulting services to multiple clients including other governmental entities. Further, the TOWN, recognizes and acknowledges that the CONSULTANT may presently, or may in the future, represent clients who are or may be doing business in or with the TOWN. The TOWN agrees that the CONSULTANT may perform services for clients who are or may have matters before the Town Commission, provided

CONSULTANT discloses any and all clients it represents who may have any matters which are now or may reasonably be expected to come before the Town Commission for its consideration and, provided further, that the Town Commission waives the actual or potential conflict of interest created by the CONSULTANT'S representation.

12. GENERAL PROVISIONS

- 12.1 Notwithstanding any provisions of this CONTRACT to the contrary, the parties shall not be held liable for any failure or delay in the performance of this CONTRACT that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. Failure to perform shall be excused during the continuance of such circumstances, but this CONTRACT shall otherwise remain in effect.
- 12.2 The laws of the State of Florida shall govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue shall be in the Nineteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justiciable in federal court.
- 12.3 In the event any provisions of this CONTRACT shall conflict, or appear to conflict, the CONTRACT, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- 12.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this CONTRACT by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this CONTRACT. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this CONTRACT specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 12.5 Should any term or provision of this CONTRACT be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this CONTRACT, to the extent that the CONTRACT shall remain

operable, enforceable and in full force and effect to the extent permitted by law.

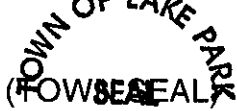
- 12.6 This CONTRACT may be amended, extended, or renewed only with the written approval of the parties.
- 12.7 This CONTRACT states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this CONTRACT. The CONSULTANT recognizes that any representations, statements or negotiations made by TOWN staff do not suffice to legally bind the TOWN in a contractual relationship unless they have been reduced to writing and signed by an authorized TOWN representative. This CONTRACT shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this CONTRACT on the date first written above.

TOWN OF LAKE PARK, FL

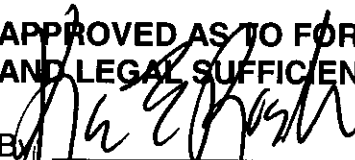
ATTEST:

Vivian Mendez, Town Clerk




FLORIDA

By: 
for Paul Castro, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
By: 
for Thomas J. Baird, Town Attorney

CONSULTANT:

ERDMAN ANTHONY OF FLORIDA, INC.

BY: 
Dana I. Gillette, P.E., ASM
Principal Associate

**REIMBURSEMENT AGREEMENT
WITH PALM BEACH COUNTY AND
THE TOWN OF LAKE PARK
FOR THE INSTALLATION OF STREET LIGHTING
ON SILVER BEACH ROAD FROM AVENUE 'S' TO CONGRESS AVENUE**

R2007-2154

THIS REIMBURSEMENT AGREEMENT is made and entered into this
day of ~~DEC 04 2007~~, by and between **PALM BEACH COUNTY**, a political
subdivision of the State of Florida, hereinafter referred to as "**COUNTY**" and **THE
TOWN OF LAKE PARK**, a municipal corporation of the State of Florida hereinafter
referred to as "**TOWN**"

WITNESSETH:

WHEREAS, the **TOWN** is undertaking the installation of street lighting along
Silver Beach Road within the **TOWN** limits hereinafter referred to as
"**IMPROVEMENTS**"; and

WHEREAS, the **IMPROVEMENTS** include the design, installation, operation,
and maintenance of street lighting within the **TOWN** limits; and

WHEREAS, the **COUNTY** believes that the **IMPROVEMENTS** to this street serve
a public purpose in the enhancement and safety of the **TOWN** and wishes to support
the **IMPROVEMENTS** by providing supplemental reimbursement funding for the
documented costs of the **IMPROVEMENTS** in an amount not to exceed **FIFTY EIGHT
THOUSAND DOLLARS (\$58,000)** and

WHEREAS, after the installation of the **IMPROVEMENTS**, the **TOWN** will be
responsible for the subsequent maintenance of the **IMPROVEMENTS**.

NOW THEREFORE, in consideration of the mutual covenants, promises, and
agreements herein contained, the parties agree as follows:

1. The above recitals are true, correct and incorporated herein.
2. The **COUNTY** agrees to provide to the **TOWN** reimbursement funding
for documented costs of the **IMPROVEMENTS** in an amount not to exceed **FIFTY
EIGHT THOUSAND DOLLARS (\$58,000)**.
3. The **COUNTY** agrees to reimburse the **TOWN** the amount
established in paragraph 2 for costs associated with the **IMPROVEMENTS**, upon the
TOWN'S submission of acceptable documentation needed to substantiate its cost for
the **IMPROVEMENTS**. The **COUNTY** will use its best efforts to provide said funds to

the **TOWN** on a reimbursement basis within forty-five (45) days of receipt of all information required in paragraph 6, below.

4. The **COUNTY's** obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

5. The **TOWN** agrees to assume all responsibility for design, bidding, contract preparation, and contract administration necessary for the **IMPROVEMENTS**, including payment(s) to contractor(s) pursuant to all applicable governmental laws and regulations.

6. The **TOWN** will obtain or provide all labor and materials necessary for the **IMPROVEMENTS**. The **TOWN** shall furnish to the **COUNTY'S** representative a request for payment supported by the following:

A Contract Payment Request Form and a Contractual Services Purchases Schedule Form, attached hereto and incorporated herein as Exhibit "A" (pages 1 & 2), which are required for each and every reimbursement to the **TOWN**. Said information shall list each invoice payable by the **TOWN** and shall include the vendor invoice number, invoice date, and the amount payable by the **COUNTY**. The **TOWN** shall attach a copy of each vendor invoice paid by the **TOWN** along with a copy of the respective check and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule Form. Further, the **TOWN'S** Financial Officer shall also certify that each invoice listed on the Contractual Services Purchases Schedule Form was paid by the **TOWN** as indicated.

7. As it relates to this Agreement, the **COUNTY** may initiate a financial systems analysis and/or an internal fiscal control evaluation of the **TOWN** by an independent auditing firm employed by the **COUNTY** or by the County Internal Audit Department at any time the **COUNTY** deems necessary.

8. The **TOWN** agrees to be responsible for the subsequent maintenance of the **IMPROVEMENTS** following installation. The **TOWN** shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations from any federal, state, regional, **COUNTY** or agency which are required for the **IMPROVEMENTS**.

9. The **IMPROVEMENTS** shall be completed and final invoices submitted to the **COUNTY** no later than November 30, 2009, and the **COUNTY** shall have no

obligation to the **TOWN** or any other entity or person for any cost incurred thereafter unless the time for completion is extended by modification of this Agreement.

10. Each party shall be liable for its own actions and negligence and to the extent permitted by law; the **TOWN** shall indemnify, defend and hold harmless the **COUNTY** against any actions, claims or damages arising out of the **TOWN'S** negligence in connection with this Agreement or the performance by the **TOWN** as it may relate to this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 786.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligence, willful or intentional acts or omissions.

11. The **TOWN** shall, at all times during the term of this Agreement, maintain appropriate insurance.

12. As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the **TOWN** certifies that its affiliates, suppliers, sub-contractors, and consultants who perform work hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

13. The **TOWN** shall require each contractor engaged by the **TOWN** for work associated with this Agreement to maintain:

Workers' Compensation coverage in accordance with Florida Statutes, and;

- a. Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000.00). The **COUNTY** shall be included in the coverage as an additional insured.
- b. A payment and performance bond for the total amount of the **IMPROVEMENTS** in accordance with Florida Statute 255.05.

14. In the event of termination, the **TOWN** shall not be relieved of liability to the **COUNTY** for damages sustained by the **COUNTY** by virtue of any breach of the Agreement by the **TOWN**; and the **COUNTY** may withhold any payment to the **TOWN** for the purpose of set-off until such time as the exact amount of damages due the **COUNTY** is determined.

15. The TOWN'S termination of this Agreement shall result in all obligations of the COUNTY for funding contemplated herein to be cancelled.

16. The COUNTY and TOWN agree that no person shall, on the grounds of race, color, national origin, sexual orientation, religion or creed, sex, age, or handicap be discriminated against in performance of this Agreement.

17. In the event that any section, paragraph, sentence, clause or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

18. All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States Mail, postage paid, to the following:

AS TO THE COUNTY

Engineering and Public Works Department
Tanya N. McConnell, P.E.
Deputy County Engineer
P.O. Box 21229
West Palm Beach, Florida 33416-1229

AS TO THE CITY

The Town of Lake Park
Mr. Patrick Sullivan
Community Development Director
535 Park Avenue
Lake Park, Florida 33403

19. This Agreement shall be construed and governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now 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.

20. Any costs or expenses (including reasonable attorney's fees) associated with the enforcement of the terms and conditions of this Agreement shall be borne by the respective parties; provided, however, that this clause pertains only to the parties to the Agreement.

21. Except as expressly permitted herein to the contrary, no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith.
22. Each party agrees to abide by all laws, orders, rules and regulations and the **TOWN** will comply with all applicable governmental codes during the **IMPROVEMENTS**.
23. Each party shall promptly notify the other of any lawsuit-related complaint, or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement.
24. The parties expressly covenant and agree that in the event any of the parties is in default of its obligations under this Agreement, the parties not in default shall provide to the defaulting party thirty (30) days written notice before exercising any of their rights.
25. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not solely as a matter of judicial constraint, be construed more severely against one of the parties than the other.
26. This Agreement represents the entire understanding among the parties, and supercedes all other negotiations, or agreements, written or oral, relating to this Agreement.
27. The County will file a copy of this Agreement with the Clerk of the Circuit Court in and for Palm Beach County, Florida.
28. This Agreement shall take effect upon execution and the effective date shall be the date of execution.

REMAINDER OF PAGE LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement and it is effective on the date first above written.

R2007.2154

DEC 04 2007

THE TOWN OF LAKE PARK

PALM BEACH COUNTY, FLORIDA, BY IT'S BOARD OF COUNTY COMMISSIONERS

By: *Paul W. Beck*
Mayor

By: *Addie L. Greene*
Addie L. Greene Chair

ATTEST:
TOWN OF LAKE PARK
SEAL

ATTEST:

By: *Vivian Mendez*
City Clerk

SHARON R. BOCK, CLERK *Comp for*
By: *Sharon R. Bock*
Deputy Clerk
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: *Mark J. [Signature]*
City Attorney

By: *Mark R. [Signature]*
Assistant County Attorney

Date: Sept. 12, 2007

By: _____

APPROVED AS TO TERMS AND CONDITIONS

By: *W. McConnell*

Date: 10/26/07

**PALM BEACH COUNTY
ENGINEERING & PUBLIC WORKS DEPARTMENT
CONTRACT PAYMENT REQUEST**

Exhibit A

(PROJECT)

Grantee _____ Request Date _____

Billing # _____ Billing Period _____

PROJECT PAYMENT SUMMARY

Item	Project Costs this Billing	Cumulative Project Costs	Total Project Costs
Consulting Services	_____	_____	_____
Contractual Services	_____	_____	_____
Material, Supplies, Direct Purchases	_____	_____	_____
Grantee Stock	_____	_____	_____
Equipment, Furniture	_____	_____	_____
TOTAL PROJECT COSTS	=====	=====	=====

Certification: I hereby certify that the above was incurred for the work identified as being accomplished in the attached progress reports.

Certification: I hereby certify that the documentation has been maintained as required to support the project expenses reported above, and is available for audit upon request.

Administrator/Date

Financial Officer/Date

<u>PBC USE ONLY</u>	
County Funding Participation	\$ _____
Total Project Costs	\$ _____
Total Project Costs to Date	\$ _____
County Obligation to Date	\$ _____
County Retainage (__%)	(\$ _____)
County Funds Previously Disbursed	(\$ _____)
County Funds Due this Billing	\$ _____
Reviewed and Approved by:	_____
	PBC Project Administrator/Date

**PALM BEACH COUNTY
ENGINEERING & PUBLIC WORKS DEPARTMENT
CONTRACTUAL SERVICES PURCHASE SCHEDULE**

_____ (PROJECT)

Grantee _____ Billing Date _____

Billing # _____ Billing Period _____

Contractor Name	Contractor Invoice Number and Date	City Check or Voucher Number and Date	Project Amount Paid this Period	General Description
TOTAL				

Certification: I hereby certify that the purchase noted above was used in accomplishing the project.

Certification: I hereby certify that bid tabulations, executed contract, cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above, and are available for audit upon request.

Administrator/Date

Financial Officer/Date