

RESOLUTION NO. 50-09-18

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH MATTHEWS CONSULTING, INC. FOR PROFESSIONAL ENGINEERING SERVICES PERTAINING TO THE REDESIGN OF THE LAKE SHORE DRIVE DRAINAGE SYSTEM; AND PROVIDING FOR 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 contractual arrangements with public agencies, private corporations or other persons, pursuant to Florida Statutes; and

WHEREAS, in December 2008 and in October 2009, the Town Commission approved agreements with Calvin, Giordano & Associates, Inc. to design and prepare construction plans for a project known as the Lake Shore Drive Drainage System; and

WHEREAS, the construction plans authorized in December 2008 and October 2009 were completed but the Project was not constructed due to lack of funding; and

WHEREAS, between the completion of the original design plans and 2018, drainage issues on Lake Shore Drive have accelerated and the properties along Lake Shore Drive have been subjected to increased flooding; and

WHEREAS, due to the acceleration of rising sea levels, the original design of the Lake Park Drainage System has been determined to be inadequate to provide a long term drainage solution for this area of the Town; and

WHEREAS, on December 20, 2017, the Town Commission authorized a new drainage study of the Lake Shore Drive drainage basin to investigate options for a redesign of the Lake Shore Drive drainage system, including the option of a pump station to increase drainage capacity; and

WHEREAS, based on the results of this new drainage study, the Town issued a Request for Qualifications (RFQ) to solicit professional consulting firms to redesign the drainage system along Lake Shore Drive, including permitting and construction bidding assistance; and

WHEREAS, on May 29, 2018, the Town received five responses to its RFQ; and

WHEREAS, on June 27, 2018, and July 5, 2018, a Town Evaluation Committee ranked the five responses, and Matthews Consulting, Inc. was the top ranked firm; and

WHEREAS, Matthews Consulting, Inc. is qualified and able to provide such services; and

WHEREAS, the cost to perform such services is \$283,780.00.

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

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

Section 2. The Commission hereby authorizes an agreement with Matthews Consulting, Inc. to provide Professional Engineering Services associated with the redesign of the Lake Shore Drive Drainage System. The Mayor is hereby authorized and directed to execute the agreement between the Town and Matthews Consulting, Inc., a copy of which is attached hereto and incorporated herein as Exhibit "A".

Section 3. This Resolution shall become effective immediately upon execution.

The foregoing Resolution was offered by Vice-Mayer Glas-Castro, who moved its adoption. The motion was seconded by Commissioner Flaherty, 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 ANNE LYNCH	<u>✓</u>	___
COMMISSIONER ROGER MICHAUD	<u>✓</u>	___

The Town Commission thereupon declared the foregoing Resolution NO. 50-09-18 duly passed and adopted this 5th day of September, 2018.

TOWN OF LAKE PARK, FLORIDA


BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


FOR VIVIAN MENDEZ
TOWN CLERK



Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

**PROFESSIONAL SERVICES AGREEMENT
FOR
LAKE SHORE DRIVE DRAINAGE SYSTEM DESIGN**

This Professional Services Agreement (Agreement) is made by and between the **TOWN OF LAKE PARK**, with an address of 535 Park Avenue, Lake Park, Florida, 33403 (the "Town") and **BAXTER & WOODMAN, INC. d/b/a MATHEWS CONSULTING** (the "Consultant"), an Illinois corporation, with a principal address of 8678 Ridgefield Road, [Crystal Lake], IL 60012 and a local address of 477 S. Rosemary Ave., Ste. 330, West Palm Beach, FL 33401.

SECTION 1 - SCOPE OF SERVICES FOR THE LAKE SHORE DRIVE PROJECT

The Town has selected the Consultant to perform engineering design, permitting, and bidding services for certain utility and roadway drainage improvements to Lake Shore Drive (the "Project").

The Project includes additional design services of a drainage system and other related improvements for Lake Shore Drive (also referred to herein as "the road") starting at the entrance of the Lake Park Marina and continuing north for 3,220 feet to Castlewood Drive (the Project limits). A drainage system was previously designed and permitted for this area of the road by Calvin, Giordano & Associates, Inc. (CGA). The permit was issued by the South Florida Water Management District in 2011, but the permit expired in 2016. Concerns over the Sea Level Rise (SLR) prompted the Town to request a study to assess the incorporation of a stormwater pumping station. This study was completed in April of 2018 and recommended changes to the previously designed drainage system including a 50,000 gallon per minute pump station.

A Preliminary Design Report will be produced by the Consultant which will include a stormwater modeling analysis to compare drainage alternatives and to size drainage facilities for the appropriate level of protection. Options shall include combinations of gravity outfalls with a pump station, offsite detention and raising of the road. The road shall be assessed to determine whether the pavement and base should be replaced or if milling and overlaying is necessary.

The Consultant shall coordinate with the Seacoast Utility Authority (SUA) to determine whether it is necessary for the SUA to replace its existing water main and/or gravity sanitary system within the Project limits.

The Consultant shall consider the addition of bike lanes along with aesthetic improvements including landscaping and street lighting with consideration of similar improvements proposed with the ongoing US 1 Corridor Restudy. The Consultant shall also provide such services as the Town may require to support the Town's Public Outreach program.

The Consultant shall provide Engineering Services including the following primary tasks:

- Task 1 – Meetings and Coordination with SUA
- Task 2 – Data Collection
- Task 3 – Preliminary Design
- Task 4 – Design Services
- Task 5 – Permitting
- Task 6 – Public Outreach
- Task 7 – Bid Assistance

Task 1 – Meetings and Coordination with SUA

Subtask 1.1 Design Meetings

The Consultant shall attend the Town's kick-off meeting and three (3) design workshop meetings (at PDR completion, 60% and 90% design stages) and shall provide an agenda and a written summary of the issues discussed for each meeting.

Subtask 1.2 – Coordination with Seacoast Utility Authority

Water and sanitary systems are owned and controlled by Seacoast Utility Authority (SUA). Consultant shall attend a meeting with SUA for the purpose of reviewing SUA's plans and timing for utility improvements. It is anticipated that if SUA decides to partner with the Town, then the related engineering design services would be either 1) amended to this agreement, 2) arranged through a separate agreement between the Consultant and SUA or 3) performed by another engineering consultant contracted by SUA.

Subtask 1.2 – Coordination with US 1 Corridor Restudy

Consultant shall obtain and review relevant information pertaining to the US 1 Corridor Study and attend a landscaping/lighting coordination meeting with the Town to discuss the Town's vision regarding the aesthetics of the road when completed.

Task 2 - Data Collection

Subtask 2.1 – Survey (Verify and Supplement)

Consultant shall furnish the services of a professional surveyor to review a previous survey and perform additional surveying. A field check shall be performed to verify that the needed topographic features are in the survey and to add recent site improvements. This includes visible, physical objects, roadway pavement, driveways, sidewalks, curb, trees, drainage swales, landscaping, signs, lift stations, fences, power poles, buildings with finished floor elevations, and other encumbrances. It has already been noted that there is no trees or other vegetation on the survey. Additional building floor elevations and additional topography shall be furnished in the area of the park and along the bottom of the Lagoon along the seawall. Right-of-way and lot/tract lines are also not included in the file and shall be added.

A quality control check shall be performed to verify the accuracy of the previous survey by performing horizontal and vertical spot checks of various features throughout the Project limits. The control shall be referenced from the National Geodetic Survey (NGS) or Palm Beach County Control Network which is the North American Datum of 1983 and the 1990 adjustment for horizontal control (NAD 83/90) and the North American Vertical Datum of 1988 (NAVD 88) for vertical control. Reference benchmarks shall be provided at maximum 600-foot intervals. Elevations are to be referenced to an existing established Town or County Benchmark.

The previous survey will be combined with the additional topographical survey data and compiled in AutoCAD (Version 2016) format at a scale of 1"=20'. If the previous survey is found to be unsuitable, additional survey services may be required to obtain the information beyond the additional survey items described above.

Subtask 2.2 – Geotechnical

Consultant shall furnish the services of a professional geotechnical engineer to provide subsurface investigations within the Project limits that shall include standard penetration borings, pavement cores and percolation testing. The collected field data shall be evaluated and presented in a geotechnical engineering report. The report shall include an evaluation of the pavement and base material to provide a Structural Number (SN) which can be compared to local standards for a pass/fail determination. The percolation tests performed for a previous geotechnical report shall be utilized. However, because the penetration borings were not performed to suitable depths, and the report did not include a pavement/base assessment to determine the condition of the existing roadway, a new geotechnical report shall be produced that includes the following:

- Ten (10) 10-foot deep borings with pavement cores
- Five (5) additional pavement cores
- One (1) 25-foot deep boring in vicinity of potential pump station
- One (1) additional percolation test in area of potential dry detention in the Park

All 15 pavement cores shall be analyzed to determine the Structural Number (SN) which is to be compared to local minimum standards.

Maintenance of traffic shall be provided in accordance with FDOT while performing the borings in the roadway.

Subtask 2.3 Field Verification (soft digs)

Consultant shall furnish the services of a professional underground services company to provide underground field locations of affected existing utilities. The services shall consist of measuring and recording the approximate horizontal, vertical, width and depth data of affected utilities within the Project limits. It is estimated that approximately fifteen (15) utility locations will need to be pot-holed. The cost of providing the professional underground services company shall be treated as an allowance, not to exceed \$6,000.

Task 3 – Preliminary Design Phase

Subtask 3.1 – Field Investigation

The Consultant shall conduct field reviews of the Project limits following a rainfall event in order to observe roadway ponding or flooding; to observe the pavement and sidewalk condition; and to conduct a survey field check of the general project conditions pertinent to the design.

Subtask 3.2 –Data Collection & Review

The Consultant shall review all available information pertaining to the Project made available by the Town, or permitting agencies, including:

- Previous studies and reports
- Previous permits
- Site and drainage plans of surrounding developments
- LIDAR elevation datasets
- GIS spatial datasets for stormwater infrastructure, roads, land use, soils, buildings, etc.
- Town-staff's information from observations in the field or resident complaints

Subtask 3.3 – Drainage Basin Delineation / Drainage Model Input

Basin Delineation: Basins shall be delineated and subdivided into subbasins based on previous reports, permits, stormwater piping and topography. The delineation shall be designed to estimate the contributing areas to the critical portions of the Stormwater infrastructure to properly model the capacities of the systems. Although this work has been performed by previous engineers, it shall be verified by the Consultant. Inflow from surrounding developments is particularly important to the drainage evaluation.

Model Input: ICPR4 shall be used for hydrologic and hydraulic modeling to assess the existing conditions and alternative scenarios.

- Hydrologic Model Input
Primary basin and subbasin hydrologic information shall be entered including areas, times of concentration, curve numbers, rainfall and imperviousness. Times of concentration shall be calculated based on travel lengths and roughness coefficients. Curve numbers shall be calculated based soils and land use.
- Hydraulic Model Input

Model links and nodes shall be added to the model to define stormwater network. Links shall consist primarily of pipes and also include broad crested weirs to represent sheetflow between basins and subbasins. Pipe data shall include sizes, lengths and roughness coefficients based on available information and survey data. LiDAR data shall be used to create stage-area curves for each storage node in the system using GIS algorithms.

- Testing

A quality control desktop review of the model input shall be performed. The model will be tested to verify that it is providing reasonable results. Model instabilities, if present, shall be located and corrected. Recorded monitoring data of discharge rates and flood levels is not available. Therefore, a calibration cannot be performed beyond making adjustment, if needed, to match eyewitness accounts. The model shall be used to perform relative comparisons of scenarios.

Subtask 3.4 – Evaluation of Stormwater Alternatives

The stormwater model shall be revised to simulate drainage alternatives. Alternatives include:

- Addition of inline check valves on existing outfall pipes.
- Centralized pump station to replace gravity outfall pipes.
- Combination of gravity outfall pipes (with check valves) and pump station.
- Combination of gravity outfall pipes (with check valves) and raising road elevation.

Sea Level Rise (SLR) and king tide will be considered. Various sources shall be reviewed including the Southeast Florida Regional Climate Change Compact (SEFRCCC), the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Army Corps of Engineers (USACE). Recorded stage data shall be researched from nearby NOAA and SFWMD monitoring stations to assess king tide events.

The results shall be evaluated to determine the benefits and impacts that each alternative presents. Considerations include pre-vs-post discharge rates and peak stages. The existing overall peak discharge rate to the Lake Worth Lagoon shall not be exceeded.

The model shall be used to size the roadway drainage infrastructure based on the selected alternative. The collection and conveyance system shall be sized to deliver water to the outfall(s) with a hydraulic grade line that is below the rim and grate elevations for the Town's roadway Level of Service (LOS) design storm event.

Subtask 3.5 – Roadway, Landscaping and Street Lighting

Preliminary design of the roadway shall be performed. Portions of the road that need to be replaced or milled and overlaid shall be identified based on a determination of roadway pavement condition by review of the pavement cores. Typical road sections shall be drafted showing the proposed roadway, bike lane(s), sidewalks and grassed areas/swales. Typical locations and plant types for proposed landscaping shall be determined based on coordination with Town staff. Street lighting shall also be coordinated with the Town to determine pole and fixture selection. Up to three (3) renderings of typical section examples showing landscaping, lighting and roadway shall be produced that can be used for Public Outreach meetings.

Subtask 3.6 – Preliminary Design Report (PDR)

Stormwater: A description of the data and procedures taken to develop, test and run the model shall be documented. Each alternative shall be described with figures illustrating the associated proposed improvements. The results shall be presented in tables, figures and charts demonstrating the benefits and impacts of the alternatives. A final recommendation shall be made and the related improvements such as check valves, piping and pump station, shall be described and illustrated. It is assumed that the pump station will not include emergency generator or building. However, the design shall consider the future connection of a generator.

Roadway: The pavement condition shall be discussed in conjunction with the recommended drainage

improvements along with any of SUA's planned water and sanitary improvements Full roadway reconstruction versus mill and overlay improvements shall be recommended based on 1) the pavement condition, 2) the level of impacts on the pavement by the planned utility improvements and 3) the necessity and extent of raising the road elevation. Roadway sections shall be presented showing the proposed roadway (pavement, base and subgrade), bike lane(s), sidewalks and grassed areas/swales.

Landscaping and Lighting: Based on coordination with Town staff, landscaping and lighting within the Project limits shall be discussed and illustrated with color renderings and selection of decorative light poles and fixtures.

Coordination with SUA: The results of meetings with SUA and how the SUA's improvements, if any, will be included in the PDR. Information provided by SUA that is pertinent to the Project shall be included, along with the status of ongoing coordination.

Engineer's Opinion of Probable Construction Cost: An engineer's opinion of probable construction cost (preliminary) shall be prepared to correspond to the design level at 30 percent design of the Project.

The Consultant shall submit a Draft PDR (one hard copy and .pdf format) to the Town for its review and comment. A meeting shall be scheduled with the Town staff to review the comments. The Final PDR shall be prepared addressing the comments received, a three (3) hard copies and the report in .pdf format shall be submitted to the Town.

Subtask 3.7 Quality Assurance

The Consultant shall provide internal QA/QC reviews on the Draft and Final Preliminary Design Reports.

Task 4 - Design Services

Subtask 4.1 Utility Coordination

The Consultant shall coordinate with all utilities within the Project limits (electric, phone, gas, cable TV, and fiber optics, etc.) to collect record information. This Subtask includes reconciling apparent discrepancies between record information and existing photographic and field-verification information.

Subtask 4.2 Design Drawings

Design disciplines shall include drainage; roadway; pump station mechanical, electrical and structural; street lighting; and landscaping. Preparation of construction documents shall include contract drawings and details and shall include: cover sheet, general notes, plan/profile drawings, and miscellaneous detail sheets. The drawing scale shall be 1-inch equals 20 feet for plan and 1-inch equals 2 feet for profile. Consultant shall prepare the engineering design elements on topographic survey information in an AutoCAD release 2016 format. Drawings shall be submitted for TOWN review at 60 percent, 90 percent and 100 percent stages. The Consultant shall meet with the Town to discuss comments, and incorporate comments into final documents. The Consultant shall furnish two (2) hard copies of plans (and in PDF format) of the 60%, 90% and 100% design drawings, one (1) set of AutoCAD Version 2016 files in electronic format upon completion of the Project.

Subtask 4.3 Technical Specifications

Technical specifications shall be prepared by Consultant for bidding purposes for the proposed improvements within the Project area. The Front-End Contract Documents shall be prepared by the Town and provided to the Consultant. The Consultant shall prepare specifications and submit same to the Town for its review at 60 percent, 90 percent and 100 percent stages.

Subtask 4.4 Construction Cost Opinion

An opinion of probable construction cost shall be prepared for the 60 percent, 90 percent and 100 percent drawings submittal. The cost estimate format shall be consistent with Section 5 of this agreement.

Subtask 4.5 Quality Assurance

Consultant shall provide internal QA/QC reviews on the 60 percent, 90 percent and 100 percent Design Documents (e.g. drawings, specifications, and cost estimates).

Task 5 - Permitting

Subtask 5.1 – Marine Benthic Survey

Seagrass performs a vital function in the Lake Worth Lagoon by filtering algae-causing nutrients and other pollutants from the water. Previous surveys have found seagrass in the Lagoon in the vicinity of the Project. The seagrass shall be surveyed to determine the current extent and whether the Project will impact the seagrass. The seagrass survey shall be performed between June 1 and September 30 and be completed one year prior to the permit submittal.

A marine benthic survey of the submerged bottom within the area of the proposed outfall shall be performed. The survey shall extend out approximately 50 feet from the outfall location. The benthic survey requires use of SCUBA and shall be conducted by using access points at the seawall (ladders, for example). SCUBA divers shall record general observations of dominant species observed, and approximate percent aerial cover, as applicable. The seawall within the Project limits shall be inspected for the presence of corals. SCUBA divers shall delineate seagrass areas and record the locations of coral species to sub-meter accuracy.

The previous survey found seagrass near, but not close enough to the proposed outfall pipe to be a concern. If the seagrass has migrated and could be impacted by construction, then mitigation may be required. Services to develop and permit a mitigation plan are not included in this scope and would require additional services to the agreement.

Subtask 5.2 – SFWMD Environmental Resource Permit

During the Design Phase the Consultant shall meet with the South Florida Water Management District (SFWMD) to verify potential design permitting requirements. An application for an Environmental Resource Permit shall be prepared along with supporting information and submitted to SFWMD. The submittal shall include signed and sealed drawings and calculation to demonstrate that the Project meets SFWMD's regulatory requirements in regard to water quality and water quantity.

Subtask 5.3 Dewatering Permit (SFWMD)

The Consultant shall prepare and submit a "Water Use Permit Application" for short-term dewatering to SFWMD and a dewatering plan. Groundwater drawdown calculations shall be performed and temporary impoundment areas shall be strategically located to produce hydraulic barriers to offset drawdown between the construction site and the Lagoon.

Subtask 5.4 Letter of Consent for Use of Sovereign Submerged Lands of the State

The Consultant shall prepare and submit information to the Florida Department of Environmental Protection to request a permit or such approvals as may be necessary to install revetment in the Lake Worth Lagoon along the seawall where a new outfall is proposed.

Subtask 5.5 Nationwide Permit (USACOE)

The Consultant shall prepare and submit an application to the US Army Corps of Engineers (USACOE) for a Nationwide permit which is required for work in wetlands or waters of the State.

Task 6 – Public Outreach

Subtask 6.1 Prepare Presentation Material

The Consultant shall provide assistance with the development of presentation materials for the public meeting for the affected property owners and businesses. Presentation material shall include preparation of display up to three (3) boards and notification signs placed around the area for meeting notification.

Subtask 6.2 Public Meetings

The Consultant shall attend up to three (3) meetings prior to construction with the property owners and business entities in the vicinity of the Project. The meetings shall be coordinated by and attended by the Town staff and held at a location identified by the Town.

Task 7 - Bidding Assistance

Subtask 7.1 Bid Distribution

The Consultant shall assist Town in advertising for and obtaining bids or negotiating proposals for construction (including materials, equipment and labor).

Subtask 7.2 Bid Conference

The Consultant shall attend pre-bid conference and provide a written summary of issues discussed.

Subtask 7.3 Bid Clarification/Addenda

The Consultant shall issue addenda and provide supplemental information or clarification, as appropriate to interpret, clarify, or expand the bidding documents to all prospective bidders

Subtask 7.4 Contract Award

The Consultant shall attend the bid opening, prepare bid tabulation sheets and assist Town in evaluating bids and proposals, and in assembling and awarding contract for construction. The Consultant shall submit to Town a written recommendation concerning construction contract award.

ASSUMPTIONS:

The work described herein (the Work) is based upon the assumptions listed below. If conditions differ from those assumed in a manner that will affect schedule of Scope of Work, the Consultant shall advise Town in writing of the magnitude of the required adjustments. Any changes in the completion schedule or compensation to the Consultant shall be subject to negotiation with the Town. The services to be provided by the Town and other related key assumptions include:

1. The Town shall provide the Consultant all available record drawings of the existing facilities which are the basis of design in the Project within seven calendar days of the NTP. The drawings to be provided include site and drainage plans for those developed properties which are adjacent to Lake Shore Drive.
2. The Town shall provide the topographic survey prepared by CGA in AutoCAD format.
3. The Town shall provide for Consultant the Town's front-end documents in electronic format.
4. The Town shall prepare the Contract Documents as a single contract. No pre-purchase of materials and/or equipment is presumed.
5. The Project design shall be based on the federal, state and local codes and standards in effect at the beginning of the Project. Revisions required for compliance with any subsequent changes to those regulations are not included in the Scope of Work and shall be considered an Additional Services Item.
6. The Consultant assumes that there are no contaminated soils or groundwater in the Project limits.
7. The Town is responsible for the cost of any published notices.

8. The Town shall be responsible for all permit application fees.
9. The Contractor shall be responsible for and shall submit the permit application to the Town.
10. No emergency generator is included. However, the design will consider the future connection of a generator.

SECTION 2 - COMPLETION SCHEDULE

2.1 Schedule

The Consultant shall complete the Professional Services and provide the indicated deliverables in accordance with the following schedule:

- Mid-October, 2018 – meeting with Seacoast Utility Authority (SUA) to review US1 corridor planning. Coordination with SUA as needed from Mid-October, 2018 through early March, 2019.
- October 1, 2018 – November 15, 2018 (45 days) – complete additional surveys.
- October 15, 2018 – November 30, 2018 (45 days) – utility coordination.
- October 15, 2018 – November 15, 2018 (30 days) – pavement cores.
- October 15, 2018 – November 15, 2018 (30 days) – additional soil borings.
- October 15, 2018 – November 15, 2018 (30 days) – soft digs.
- Mid-November, 2018 – public outreach meeting.
- Mid-January, 2020 – public outreach meeting.
- December 1, 2018 – February 11, 2019 (70 days) – Preliminary Design Report.
- February 11, 2019 – March 11, 2019 (21 days) – Town review.
- Mid-February, 2019 – public outreach meeting.
- End of February, 2019 – pre-application meetings with all permitting agencies.
- March 1, 2019 – May 1, 2019 (60 days) – 60% Design
- May 1, 2019 – May 14, 2019 (14 days) – Town review of 60% Design.
- May 14, 2019 – June 28, 2019 (45 days) – 90% Design.
- June 2019 (30 days) – seagrass study.
- July 1, 2019 – July 14, 2019 (14 days) – Town review of 90% Design.
- July 1, 2019 – September 30, 2019 (90 days) – permitting with all applicable agencies.
- July 15, 2019 – August 5 (21 days) – 100% Design.
- August 5, 2019 – August 19, 2019 – (14 days) – Town review of 100% Design.
- October 1, 2019 – December 30, 2019 (90 days) – bidding assistance for construction contractor procurement.

2.2 Delay

2.2.1. Consultant shall perform its services to meet the schedule as expeditiously as is consistent with the exercise of professional skill and care and the orderly progress of the Project in compliance with the Project schedule or as amended by a writing executed by both parties. If Consultant is delayed by any act, failure to act or neglect of the Town, or any separate consultant or contractor hired directly by the Town, or by occurrences beyond the control and without any fault or negligence of Consultant, the Consultant shall provide a written notice of the reasons for the delay to the Town, within five (5) working days of the date the delay began. Provided the Consultant has timely notified the Town of such delay, and the Town determines the delay was reasonable, the Parties shall execute a written amendment to the schedule. This extension of time shall be Consultant's sole and exclusive remedy which the Consultant shall have against the Town attributed to such delay.

2.2.2. The Consultant acknowledges responsibility for any delay damages suffered by the Town as a result of Consultant's negligent, reckless or intentional wrongful actions or

inactions. In the event that the Town suffers or reasonably believes that it will suffer any delay damages due to the foregoing, the Town, in its sole reasonable discretion, shall have the right to terminate this Agreement upon five (5) day's written notice. Such termination shall not be construed to constitute a breach of this Agreement by the Town

SECTION 3 - PROFESSIONAL SERVICES FEE & ADMINISTRATIVE EXPENSES

3.1 Professional Services Fee Schedule.

The Fee for all Professional Services (Fee) provided by the Consultant is set forth in the Fee Schedule set forth below. The Fee Schedule includes estimated hours by position category for each phase of Professional Services, along with the hourly rates for those positions. The Fee shall not exceed the total amount shown in the Fee Schedule and shall be the sole compensation paid to the Consultant. The Consultant's hourly rates:

- Principal Engineer - \$170/hour
- Senior Engineer, Level III/IV - \$160/hour
- Senior Engineer, Level I/II - \$135/hour
- Engineer, Level III/IV - \$110/hour
- Engineer, Level I/II - \$95.00/hour
- Professional Surveyor I - \$145.00/hour
- 2-man Survey Crew - \$125.00/hour
- CAD/GIS Survey Tech level III/IV - \$110.00/hour.
- CAD/GIS/Survey Tech level I/II - \$95.00/hour
- Clerical - \$70.00/hour

Task No.	Task Description	Labor Classification and Hourly Rates										Sub-Consultant Services
		Principal Engineer \$170.00	Senior Project Engineer IV \$160.00	Engineer II \$110.00	CAD Tech III \$110.00	Construction Eng. Tech. IV (Const. Mgr.) \$120.00	Senior Inspector \$90.00	Sr. Prof. Surveyor \$145.00	Survey Crew (2 party) \$125.00	Clerical \$70.00	Total Labor	
1	Project Management											
1.1	Design Meetings (4 Mtgs)	6	12	24					6	\$6,000		
1.2	Coordination with SUA	4	6							\$1,640	\$1,000	
1.3	Coordination with US-1 Corridor Redesign (1 Mtg)	4	6							\$1,640		
	Subtotal Task 1	14	24	24					6	\$9,260	\$1,000	
2	Data Collection											
2.1	Surveying (Review and Supplement)			5	48			22	46	\$14,770		
2.2	Geotechnical	1	2	4						\$930	\$11,500	
2.4	Field Verification (soft-digs)			4						\$440	\$6,000	
	Subtotal Task 2	1	2	13	48			22	46	\$16,140	\$17,500	
3	Preliminary Design Phase											
3.1	Field Investigation		4	8	8					\$2,400		
3.2	Data Collection and Review	1	4	4						\$1,250		
3.3	Basin Delineation/Model Input	1	24	32						\$7,530		
3.4	Evaluation of Stormwater Alternatives	2	46	50						\$13,200		
3.5	Roadway, Landscaping and Lighting Evaluations	2	18	22	12					\$6,960	\$16,500	
3.6	Engineer's Opinion of Probable Construction Cost	2	6	12	8					\$3,280	\$4,000	
3.7	Preliminary Design Report (Draft)	4	32	26	12				16	\$11,100		
3.8	Preliminary Design Report (Final)	2	6	8	4				4	\$2,900		
3.9	Quality Assurance									\$680		
	Subtotal Task 3	18	140	162	42				20	\$49,300	\$20,500	

4	Design Services										
4.1	Utility Coordination	1	2	6	6					\$1,810	
4.2	60% Design Drawings									\$13,640	
4.2.1	Drainage & Roadway	4	26	40	40					\$10,780	
4.2.2	Pump station Mechanical/Structural	2	24	30	30					\$1,470	\$8,000
4.2.3	Pump Station Electrical	1	4	6	6					\$1,470	\$4,500
4.2.4	Street Lighting - Electrical	1	4	6	6					\$1,470	\$10,000
4.2.5	Landscaping and Irrigation	1	4	6	6					\$1,470	
4.3	90% Design Drawings									\$12,660	
4.3.1	Drainage & Roadway	2	22	40	40					\$8,210	
4.3.2	Pump station Mechanical/Structural	1	20	22	22					\$930	\$5,000
4.3.3	Pump Station Electrical	1	2	4	4					\$930	\$3,000
4.3.4	Street Lighting - Electrical	1	2	4	4					\$710	\$5,000
4.3.5	Landscaping and Irrigation	1	2	2	2					\$8,940	
4.4	100% Design (Bid) Drawings	2	18	30	22					\$5,000	\$1,600
4.5	Technical Specifications (60%, 90% & 100%)	2	12	16	12			14		\$8,000	\$1,000
4.6	Construction Cost Opinion (60%, 90% & 100%)	2	12	22	12					\$4,120	
4.7	Quality Assurance	12	4								
	Subtotal Task 4	34	158	234	172			14		\$78,140	\$38,100
5	Permitting										
5.1	Seagrass Survey		2	3				2		\$790	\$11,000
5.2	SFWMD Environmental Resource Permit	1	24	24				2		\$8,790	\$1,200
5.3	SFWMD Water Use Permit (dewatering)	1	16	12				2		\$4,190	
5.4	Sovereign Submerged Lands		1	2				2		\$520	\$2,200
5.5	USACOE Nationwide Permit		1	2				2		\$520	\$3,500
	Subtotal Task 5	2	44	43				10		\$12,810	\$17,900
6	Public Outreach										
6.1	Prepare Presentation Material		6	6	4					\$2,060	
6.2	Attend Public Meetings (total of 3)		8	8						\$2,160	
	Subtotal Task 6		14	14	4					\$4,220	
7	Bidding Assistance										
7.1	Bid Distribution			4				6		\$860	
7.2	Pre-Bid Conference		3					7		\$970	
7.3	Bid Clarification/Addenda		3	3				8		\$1,370	
7.4	Contract Award	1	2	2		3		6		\$1,490	\$1,000
	Subtotal Task 7	1	8	9		3		27		\$4,690	\$1,000
	Labor Subtotal Hours	70	390	499	266	15		22	46	77	
	Labor Subtotal Costs	\$11,900	\$82,400	\$54,890	\$29,260	\$1,800		\$3,190	\$5,750	\$5,390	\$174,580
	Labor Total Costs	\$174,580									
	Subconsultant Costs Total	\$96,000									
	Subconsultant Multiplier	1.1									
	Subconsultant Total	\$105,600									
	Reimbursable Expenses	\$3,600									
	Project Total	\$283,780									

3.2 Adjustment to the Professional Service Fee.

3.2.1. The Professional Service Fee may be adjusted, if necessary, by a written amendment to this Agreement, duly approved and executed by Consultant and Town, subject to an adjustment to the Town's budget includes, or is adjusted to include, the entire Fee.

3.3 Administrative, Subconsultant and Travel Expenses.

- 3.3.1 Mileage reimbursement shall be at IRS standard mileage rates.
- 3.3.2 Subconsultant costs shall be billed not to exceed a 10% markup.
- 3.3.3 Hourly rates for Consultant positions shall be subject to annual cost of living adjustments.

3.4 Invoices.

3.4.1. All invoices must identify the Town PO number. Invoices shall be submitted

directly to:

Town of Lake Park
Accounts Payable
535 Park Avenue
Lake Park, FL 33403

3.4.2 Invoices shall show the actual hours worked, person performing services, services performed and/or deliverable provided, hourly rate, and dates(s) of service. Invoices requesting reimbursement of expenses shall include written documentation of the expenses, and shall be subject to the approval of the Town.

3.4.3 Invoices for lump sum type work shall be accompanied by a status report briefly describing the activities and the services performed. The payment request amount shall be related to the percentage of services completed.

3.4.4 Invoices received from the Consultant pursuant to this Agreement shall be subject to the prior approval of the Town to confirm that the services were rendered in conformity with the Agreement.

3.5 Payment.

3.5.1 The Fee shall be paid in accordance with Section 3.1 and upon acceptance of deliverables satisfactory to the Town and the receipt of a proper invoice from Consultant.

3.5.2 Payment of Fees shall be made in accordance with the Prompt Payment Act, Section 218.70, Florida Statutes, as amended.

3.5.3 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.

SECTION 4 - TERM

4.1 This Agreement shall commence as of the date of full execution of this Agreement by the parties. The term of this Agreement shall continue in force until completion of the Professional Services related to the Project as set forth in this Agreement, unless terminated by either party pursuant to the termination provisions in this Agreement, or by the mutual consent of the parties.

4.2 It is agreed that the indemnity provisions, insurance provisions, the right to audit and all covenants, agreements, representations and warranties made in this Agreement or otherwise made in writing by the 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 5 - ESTIMATED CONSTRUCTION COSTS OF DESIGN

5.1 Included in Estimated Construction Cost of Design

The Estimated Construction Cost of the Project are based upon the design services set forth herein and shall include an itemization of each of the following:

- a. Cost to construct, 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. Allowance for other necessary services, such as materials testing, to be provided by others for the Town;
- d. Traffic Control;
- e. Video Taping Inspections, when applicable;
- f. Mobilization and de-mobilization

5.2 Excluded in Estimated Construction Cost

The Estimated Construction Cost of design shall exclude Consultant's Professional Services Fee.

SECTION 6 - REPRESENTATIONS OF THE CONSULTANT

6.1 Authority.

The Consultant hereby represents and warrants to the Town 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.

6.2 Duly Licensed.

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

6.3 No Solicitation.

The Consultant warrants 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 Town 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.

6.4 Public Entity Crimes Act.

The Consultant represents that by its execution of this Agreement it has not violated the Public Entity Crimes Act (Section 287.133, Florida Statutes), and certifies that neither the Consultant nor any of its parent corporations, affiliates, subsidiaries, members, shareholders, partners, officers, directors or executives, or sub-consultants have been, or are presently debarred, proposed for debarment or declared ineligible to bid or participate in any federal, state or local government agency projects and are not listed on the Florida convicted Consultant list. Violation of this section may result in termination of this Agreement and recovery of all monies paid by the Town to the Consultant, and may result in debarment from Town's competitive procurement activities.

6.5 Standard of Care.

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

6.6 Warranty of Design and Constructability

Consultant hereby represents to Town that where the Professional Services include the development of Construction Drawings, Technical Specifications and Supplemental Conditions, pertaining to the Project, to the best of Consultant's knowledge, information and belief: (i) is and shall be designed in accordance with generally accepted architectural and engineering standards, as applicable, and generally accepted industry standards; and (ii) is constructible. Without waiver of Town's other rights and remedies, the Consultant warrants that the Town may require Consultant to perform again, at Consultant's sole cost and expense, any design services which were not performed in accordance with the standards set forth in this Agreement. Consultant hereby waives any claims which it may have or assert against the Town with respect to this section, except and unless any failure of Consultant to perform, in whole or in part, is due to the action or inaction of the Town. Without limiting any other remedy available to Town, the Consultant shall furnish at its own expense any redesign or revisions to the Construction Documents, Technical Specifications and Supplemental Conditions necessary to correct any negligent or 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 Town's review or approval of, or payment for, any Professional Services or deliverables under this Agreement and resulting work authorizations 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.

6.7 Ethics Provisions; No Conflicts of Interest.

- 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.
- 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 Town or any Town agency or selection committee.
- Consultant represents that it does not employ, directly or indirectly, the Mayor, members of the Town commission or any appointed Town official, department director, or member of any board, committee or redevelopment agency of the Town.
- Consultant represents that it does not employ, directly or indirectly, any employee or member of any board, committee or redevelopment agency of the Town who, alone or together with his household members, own at least five percent (5%) of the total assets and/or common stock of Consultant.
- 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 Town commission, any department director or head of the Town, any employee of the Town or any official of the Town's redevelopment agency, or any member of a board that provides regulation, oversight, management or policy-setting recommendations regarding the Consultant or its business.
- 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.
- 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 Town under this Agreement.

- Consultant, its officers, personnel, subsidiaries and subcontractors shall not, during the term of this Agreement, serve as an expert witness against Town 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 Town 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.
- Consultant shall promptly notify the Town 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 the Consultant intends to undertake and shall request the opinion of the Town as to whether such association, interest or circumstance would, in the opinion of the Town, constitute a conflict of interest if entered into by the Consultant. The Town agrees to notify the 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 Town, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the Town shall so state in its opinion and the 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 Town by the Consultant under this Agreement.
- In the event the Consultant is permitted to utilize subcontractors to perform any services required by this Agreement, the Consultant agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

6.8 Lobbying Certification.

The 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.

6.9 Truth in Negotiation Statement

Signature of this Agreement by the 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 agreement shall be adjusted to exclude any significant sums should the Town 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 agreement adjustments must be made within one year following the expiration or termination of this Agreement.

6.10 Financial Capability

The Consultant certifies that it has not filed for bankruptcy in the past five (5) years and is financially able to provide Professional Services under this Agreement. The Consultant further warrants and 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.

6.11 No Felony or Fraud

The Consultant certifies that neither it, nor any of its principals have been convicted of a felony or fraud.

SECTION 7 - RESPONSIBILITIES OF THE TOWN

7.1 Designation of Representative

The Town agrees to designate an individual to act as the Town'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 complete authority to transmit instructions, receive information and interpret and define the policies and decisions of the Town with respect to the Consultant's Professional Services.

7.2 Specification of Town Requirements

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

7.3 Items to be furnished upon the Consultant's Request

The designated representative of the Town shall use reasonable efforts to provide to the Consultant, upon the 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 Town makes no representation that any such data or documents provided by the Town 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

7.4 Access to Property

The Town agrees to arrange for access to and make all provisions for Consultant to enter Town property as required for Consultant to perform the Professional Services of this Agreement.

7.5 Attendance at Meetings

Upon request, a Town representative shall attend regularly scheduled Project progress meetings at the Town or Consultant's local office, as well as substantial completion inspections and final inspections. Consultant's Project Manager, shall attend all regularly scheduled Project progress meetings at the dates and times established.

SECTION 8 - DOCUMENTS

8.1 Ownership of Documents.

All plans, drawings, calculation, construction documents, technical specifications,

sketches, photographs, videos, illustrations, tracings, presentations of any kind, 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 will become the exclusive property of the Town without restriction or limitation on their use and will be made available, upon request, to the Town at any time during the performance of the Professional Services and/or upon completion or termination of this Agreement. Upon delivery to the Town of said document(s), the Town shall be the custodian thereof in accordance with Chapter 119, Florida Statutes. The Consultant shall not copyright any material and products or patent any invention developed under this Agreement. Consultant specifically waives and releases all rights which the Consultant may have in the materials, products or invention pursuant to 17 U.S.C. §§106A and 113(d). The 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. The Consultant waives and assigns to Town all copyrights under 17 U.S.C. §101, et seq., and all other rights in the materials, products, invention and any work produced. Notwithstanding the foregoing, Consultant shall maintain all rights to reuse standard details and other design features on other projects. Any reuse of the Consultant's prepared documents by the Town, except for the specific purpose intended under this Agreement, shall be at Town's sole risk and without liability or legal exposure to Consultant or its sub-consultants.

8.2 Obligation to Furnish Documents to the Town

The Consultant shall deliver to the Town 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 Town in connection with this Agreement.

SECTION 9 - STANDARD TERMS AND CONDITIONS

9.1 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.

9.2 Personnel; Staffing; Sub-consultants

- Independent Contractor Relationship. All persons employed by the Consultant and engaged in any of the work or Professional Services performed by the Consultant pursuant to this Agreement shall at all times be subject to the Consultant's sole direction, supervision, and control. The Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Consultant's relationship and the relationship of its employees to the Town shall be that of an independent contractor and not as employees or agents of the Town. The Consultant does not have the power or authority to bind the Town in any promise, agreement or representation other than as may be specifically provided for in this Agreement. The Consultant shall be responsible to the Town for all Professional Services or work performed by the Consultant or any person or firm engaged as a sub-consultant or subcontractor to perform work in fulfillment of this Agreement.
- Personnel. The Consultant represents that its project manager and all staff identified in the Consultant's Proposal shall remain assigned to the Project, unless otherwise specifically released by the Town. 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. The Consultant specifically acknowledges that its employees are not be covered by the Town's workers' compensation

insurance and the Consultant shall 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 Town to the Consultant under this Agreement.

- Non-Discrimination by Consultant. The Consultant warrants and represents that all of its employees and applicants for employment are treated equally without regard to race, color, religion, sex, gender identity or expression, genetic information, national origin, age, disability, familial status, marital status or sexual orientation, and that in providing services, The Consultant does not discriminate with regard to any of the aforementioned factors.
- Unauthorized Aliens/Patriot's Act. The knowing employment by the Consultant or its sub-consultants of any alien not authorized to work by the immigration laws or the Attorney General of the United States is prohibited and shall be a default of this Agreement which results in unilateral termination. In the event that the Consultant is notified or becomes aware of such default, the Consultant shall take steps as are necessary to terminate said employment with 24 hours of notification or actual knowledge that an alien is being employed. The Consultant's failure to take such steps as are necessary to terminate the employment of any said alien within 24 hours of notification or actual knowledge that an alien is being employed shall be grounds for immediate termination of this Agreement and unilateral termination. The Consultant shall take all commercially reasonable precautions to ensure that it and its sub-consultants do not employ persons who are not authorized to work by the immigration laws or the Attorney General of the United States. Consultant further represents that it is not in violation of any laws relating to terrorism or money laundering, including the Executive Order No. 13224 on Terrorist Financing and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56., the "Patriot Act").
- Selection of Sub-Consultants. The Consultant shall obtain the prior written approval of the Town as to each proposed sub-consultant and the Town reserves the right to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. If it becomes necessary to replace a particular sub-consultant to complete its part of the services, the Consultant shall promptly do so, subject to the prior written approval and acceptance of the new sub-consultant by the Town, which approval shall not be unreasonably withheld.

9.3 Compliance with Laws.

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

9.4 State Taxes.

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

9.5 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 Town. 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 Town may terminate this Agreement upon no less than 24 hours notice to the Consultant. The Town shall be the sole and final authority as to the availability of funds.

9.6 Right to Audit.

The 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 Town shall have the right to audit the Consultant's books and records, at the Town's expense, upon prior notice, with regard to the Services provided to the Town under this Agreement. The Consultant shall allow the Town 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 the Consultant to the Town in excess of one-half of one percent (.5%) of the total contract billings, (1) the reasonable costs of the Town's Internal Audit department shall be reimbursed to the Town 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 Town's findings to the Consultant. Failure by the Consultant to permit such audit shall be grounds for termination of this Agreement by the Town.

9.7 Public Records Law

With respect to public records, the Consultant is required to:

- Keep and maintain public records required by the Town to perform the service.
- Upon the request of the Town's custodian of public records, provide the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- 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 Consultant does not transfer the records which are part of this Agreement to the Town.
- Upon the completion of the term of the Agreement, transfer, at no cost, to the Town all public records in possession of the Consultant; or keep and maintain the public records associated with the services provided for in the Agreement. If the Consultant transfers all public records to the Town upon completion of the term of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential from public records disclosure. If the Consultant keeps and maintains public records upon completion of the term of the Agreement, the Consultant shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

9.8 Confidentiality

The Consultant agrees that it will make no statements, press releases or Town 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 Town and securing its written consent.

9.9 No Pledge

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

9.10 Insurance.

- The Consultant shall purchase from and maintain, in a company or companies lawfully authorized to do business in Florida, such insurance as will protect the Consultant from claims set forth below which may be caused by the performance under this Agreement by the Consultant, or by a subcontractor of the Consultant, or by anyone employed by the Consultant, or by anyone for whose acts the Consultant may be liable.
- 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.
- The Town shall be provided a minimum of thirty (30) days prior written notice of any cancellation by insurer of Consultant's required insurance coverage.
- 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 Town 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, the name of the insurer, the number of the policy, its effective date, and its termination date.
- Additional Insureds. All required insurance (except Worker's Compensation and Professional Liability) shall include an Additional Insured endorsement identifying the Town, its elected commissioners, appointed officers, employees and agents, as Additional Insureds. No costs shall be paid by the Town for an additional insured endorsement.
- Required Coverage: The Consultant shall maintain following liability coverage, in the limits specified:

Commercial General Liability: Not less than \$1,000,000.00 Combined Single Limit per each 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.

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."

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 Town. Self-insured retentions or deductibles should not exceed \$50,000.00 for written agreements or contracts with the Town with a value of less than \$1,000,000; and \$100,000 for contracts with a value of \$1,000,000 or more.

- Insurance of Subconsultants. The Consultant shall contractually require and verify that its sub-consultants will maintain during the term of their agreement, the above types of insurance, in coverage amounts acceptable to the Town.
- Anything to the contrary notwithstanding, the liabilities of the Consultant and any sub-consultants under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages.

9.11 Indemnification.

The Consultant agrees to indemnify and hold harmless the Town, its elected and appointed officials, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees recoverable under applicable law to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Consultant and any other persons employed or utilized by the Consultant in provision of the Professional Services under this Agreement. To the extent considered reasonably necessary by the Town, any sums due to the Consultant under this Agreement may be retained by Town until all of Town's claims for indemnification have been resolved, and any amount withheld shall not be subject to the payment of interest by Town. 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 Town for its own negligence, or intentional acts of the Town, their agents or employees. PURSUANT TO F.S. SEC. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD LIABLE FOR NEGLIGENCE. Nothing in this Agreement shall be deemed to be a waiver of the Town's sovereign immunity under Section 768.28, Florida Statutes. This clause shall survive the expiration or termination of this Agreement.

9.12 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 agreement 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; provided, the party so affected shall use reasonable 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.

9.13 Termination

- 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 advance written notice to said defaulting party five (5) calendar days prior to termination. As a condition precedent to termination for cause, the defaulting party shall have the right to cure within 30 days unless another time frame is otherwise agreed to by the parties.
- In the event this Agreement is terminated by the Town for cause, the Town may take over the Professional Services and complete them by contracting with another consultant (s) or otherwise, and in such event, the Consultant shall be liable to the Town for any additional cost incurred by the Town 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 the Consultant had this Agreement not been terminated.
- The Town shall have the right to terminate this Agreement, in whole or in part, without cause, and for its convenience, upon five (5) days written notice to the Consultant. The Consultant shall have no right to terminate this Agreement for convenience.
- Upon termination, the 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 Town projects to the Town.
- In the event of termination, the 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 Town (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 Town, 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 Town.
- In the event of termination, the Town shall compensate the Consultant for all authorized Professional Services satisfactorily performed through the termination date, under the payment terms contained in this Agreement. In the event of Termination for Cause, no payments to the 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 Town be obligated to compensate the Consultant for lost profits, or any resulting or consequential damages.

- 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.

9.14 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.

9.15 Litigation; Governing Law; Venue; Waiver of Jury Trial; Attorney Fees

This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with the laws of Florida without regard to conflicts of law provisions. The Town and the Consultant agree that proper venue for any suit concerning this Agreement shall be Palm Beach County, Florida, or, if a federal court claim in the United States District Court, Southern District of Florida. The Consultant agrees to waive all defenses to any suit filed in Florida based upon improper venue or *forum non conveniens*. In the event of litigation regarding the Agreement, the prevailing party shall be entitled to its reasonable costs and attorney fees.

9.16 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.

9.17 Inspector General.

The 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. The Consultant understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the Consultant or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the Town to be a material breach of this Agreement justifying its termination.

9.18 Waiver.

- 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.
- Nothing in this Agreement shall be interpreted to constitute a release of the responsibility and liability of the Consultant, its employees, sub-contractors, agents and sub-consultants for the accuracy and competency of their designs, working drawings, Construction Documents, Technical Specifications, Supplemental Conditions or other documents and works,

nor shall any approval by the Town be deemed to be an assumption of such responsibility by the Town for a defect or omission in designs, Construction Documents, Technical Specifications, Supplemental Conditions or other documents prepared by the Consultant, its employees, agents or sub-consultants.

9.19 Headings.

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

9.20 Counterparts; Digital 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. The parties to this Agreement may agree to execute this Agreement, and all subsequent amendment or modifications to it, by electronic means.

9.21 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.

9.22 Assignment.

This Agreement may not be assigned by the Consultant without the written authorization of the Town after Town's determination of the ability of the assignee to perform the Professional Services. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

9.23 Means, Methods & Safety

The Consultant will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the construction of the subject project(s).

9.24 Entire Agreement; Controlling Provisions; Amendment

- The Consultant submitted its Proposal dated May 29, 2018 (the "Proposal") in response to the Request for Qualifications No. 105-2018 issued by the Town (the "RFQ").
- This Agreement, including the RFQ, and the Consultant's response ("Proposal"), 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.
- 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 RFQ; and

(3) 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.

- This Agreement may only be modified by written amendment executed by the Town and the 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 Town. 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.

(SIGNATURES ON FOLLOWING PAGE)

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

ATTEST:
By: *Shayna Edwards*
FOR Vivian Mendez, Town Clerk

TOWN OF LAKE PARK
By: *[Signature]*
Michael O'Rourke, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
By: *[Signature]*
Thomas J. Baird, Town Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this 5th day of September 2018 by Michael O'Rourke, Mayor of the Town of Lake Park, and who is personally known to me.

(NOTARY SEAL)



Janet D. Perry
Notary Public, State of Florida

WITNESSES:
By: *[Signature]*
Jeffrey Hiscock
Printed Name

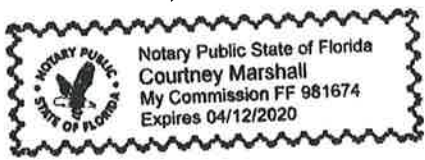
Baxter Woodman DBA Matthews Consulting
By: *[Signature]*
Rebecca Travis, Vice President
Printed Name

By: *[Signature]*
DAVID KHAMM
Printed Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

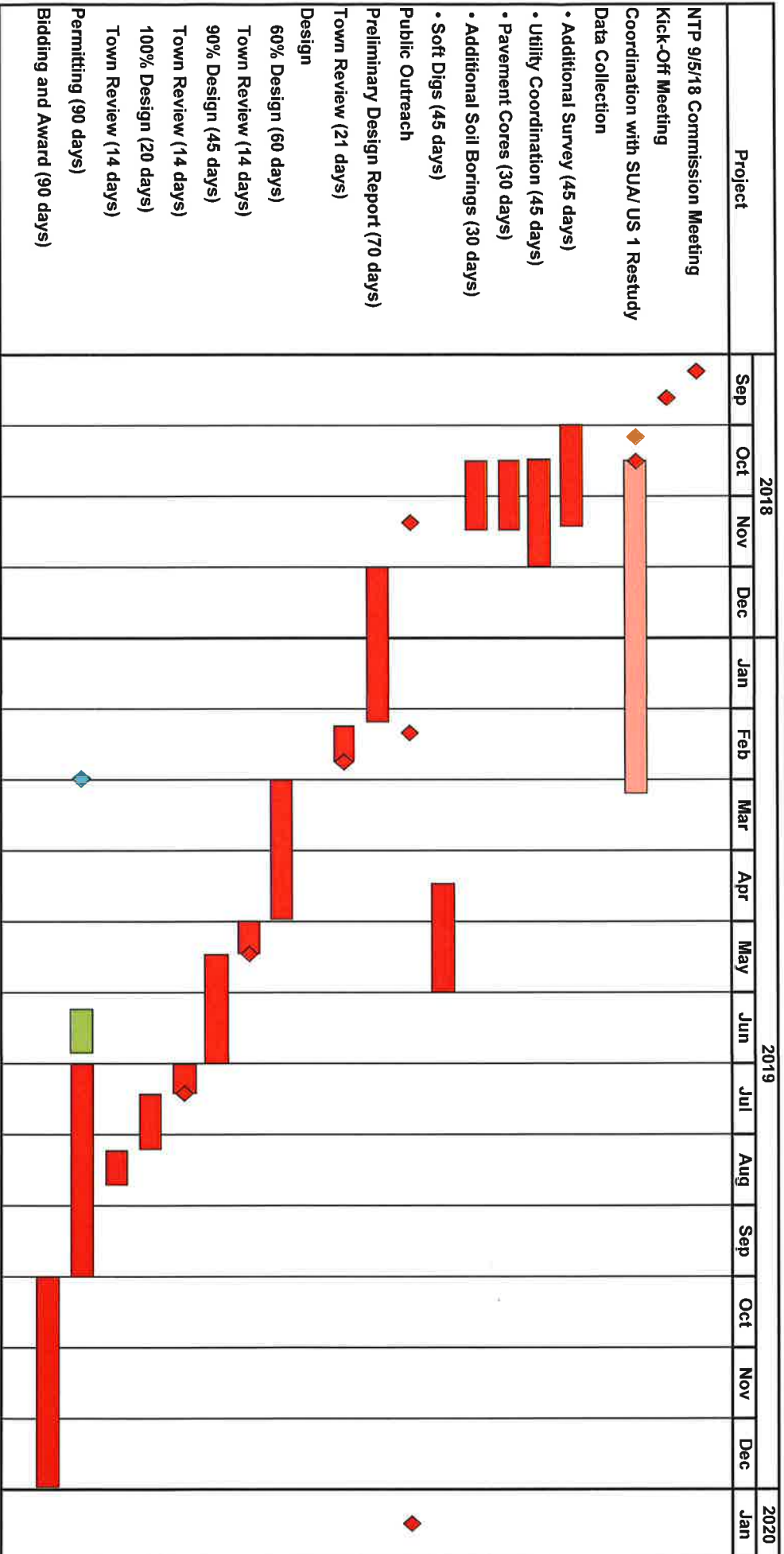
The foregoing instrument has been acknowledged before me this 17 day of August 2018 by Rebecca Travis, Vice President: Mathews Consulting, a Baxter & Woodman Company, and who is personally known to me.

(NOTARY SEAL)



Courtney Marshall
Notary Public, State of Florida

Schedule 2: Town of Lake Park - Lakeshore Drive Drainage Improvements - Preliminary Design Schedule 7/30/18



- ◆ Meetings
- ◆ Landscaping/Lighting Coordination Meeting
- ◆ Pre-application Meeting
- Seagrass Survey
- TBD



(Reconvened) Evaluation Committee Minutes
 Town of Lake Park, Florida
 Request for Qualifications (RFQ) 105-2018
 Lakeshore Drive Drainage System
 Design and Related Professional Services
 Thursday, July 5, 2018 2:00 p.m.
 Commission Chamber, Town Hall, 535 Park Avenue

The Evaluation Committee reconvened for a meeting on Thursday, July 5, 2018. Present were Community Development Director Nadia DiTommaso, Finance Director Lourdes Cariseo, and Town Clerk Vivian Mendez.

Town Clerk Mendez called the meeting to order at 2:00 p.m. She explained that the purpose of the meeting was to recalculate an error made during the previous Evaluation meeting. She explained that Public Works Director Richard Scherle had scored Craven Thompson zero points for not having an office in Palm Beach County. After further review, he found that they did have an office in Palm Beach County. He has asked that Craven Thompson's overall score include 10 points.

Community Development Director DiTommaso explained that while she was reviewing Craven Thompson she found that the principal project office was located in Ft. Lauderdale with some of the project team members located in Delray Beach. She explained that she gave them a score of five (5) for that reason. She stated that she would not be changing her scoring of Craven Thompson, but wanted to explain why she gave them a score of five (5) for this criteria.

Brent Whitfield of Chen Moore & Associates asked if it changed the order in which the firms were not rated. Town Clerk Mendez reviewed the meeting minutes of the Evaluation Committee meeting and announced the following:

Matthews consulting	290 points
Craven Thomas	245 points
Chen Moore	242 points
Calvin Giordano & Associates	241.5 points
Craig A. Smith	235 points

It changed the ranking by bumping Craven Thomas to the second position.

ADJOURNMENT:

Finance Director Cariseo adjourned the meeting at 2:07 p.m.

**Vivian
Mendez**

Digitally signed by Vivian Mendez
 DN: cn=Vivian Mendez, o=Town of Lake
 Park, ou=Town Clerk,
 email=vmendez@lakeparkflorida.gov,
 c=US
 Date: 2018.07.06 10:05:48 -0400

Town Clerk Vivian Mendez

